

# GUIDE FOR THE COMPANY SECRETARY

A PRACTICAL MANUAL AND WORK OF REFERENCE  
FOR THE COMPANY SECRETARY

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LONDON

SIR ISAAC PITMAN & SONS, LTD., AMELIA COURT, E.C.4  
BATH, MELBOURNE AND NEW YORK

WITH 76 FORMS

AND APPENDICES CONSISTING OF THE

COMPANIES (CONSOLIDATION) ACT, 1908

COMPANIES ACT, 1913

COMPANIES CLAUSES ACT, 1845

COMPANIES (FOREIGN INTERESTS) ACT, 1917

COMPANIES (PARTICULARS AS TO DIRECTORS) ACT, 1917.

LEGISLATION PASSED OWING TO THE WAR



## PREFACE

SINCE the first copies of this work appeared in 1908 twelve impressions have been exhausted. The present opportunity has been taken of considerably enlarging the scope of the work. This has been done owing to the many suggestions which have been received from the author's friends and from other readers of the book, both practitioners and teachers or their students. It has been very gratifying to note the continued growth in the great popularity of the book from both classes of its readers, particularly so in regard to the teacher and student.

Under these circumstances it has been deemed necessary to include some material with regard to Parliamentary or Statutory Companies. With this end in view, an additional appendix has been added which covers the whole text of the Companies (Clauses) Act, 1845, and it is suggested that students will do well to familiarise themselves thoroughly with both this statute and the Companies (Consolidation) Act, 1908, which is still given in the appendices, together with the small statutes recently passed, viz., the Companies Act, 1913, a small measure slightly amending provisions as to Private Companies in the parent Act of 1908, above mentioned; the Companies (Foreign Interests) Act, 1917, which prohibits, except with the consent of the Board of Trade, the alteration of Articles of Association which restrict foreign interests in Companies; and the Companies (Particulars as to Directors) Act, 1917, which provides for the disclosure of certain particulars respecting directors.

These are followed by a further appendix, which sets forth the legislation affecting Companies, passed since the outbreak of war.

The daily routine of organisation and administration of offices in parliamentary or statutory companies is very much the same as in the case of the large commercial concerns registered under limited liability, or, in other words, the Companies Acts, 1908 to 1917. There are, however, some important details such as, for instance, the treatment of the representatives of members, half-yearly meetings, position of the Secretary, etc., where legal requirements vary somewhat in the two cases. Secretaries and their assistants, or others aspiring to those positions, employed in either one or the

other of these classes of companies will do well to assimilate the legal status and requirements from all points of view as laid down by the statutes. A careful analytical comparison will be of the utmost benefit to those reading for examination. The general index to the book covers the sub-heads of each of the statutes forming the appendices, including Table A of the Act of 1908, thus greatly facilitating references, while a special index to the Acts of 1908 and 1913 will be found on pp. 241-248.

The general contents of the book have been considerably enlarged, and where necessary, have been brought into line with any new statutory requirements or important case law. From the first, the general aim of the book has not been to supply the practitioner or the student with a vast array of legal information, but to deal more fully with the ordinary requirements of everyday routine in connection with promotion and administration of company affairs. It is confidently believed that in this respect the work is probably unique, and it is thought that it is to this fact that the success of the book has been due. Where expansion has taken place this principle has been adhered to; it is consequently hoped that its sphere of usefulness has been considerably augmented. It should be borne in mind that the Secretary's duties are not wholly regulated by the statutes, or the dicta of the Courts; the great majority of his actions are controlled by set principles which are the outcome of business organisation and management as applied to the modern well-regulated company.

The following pages are the outcome of over twenty-five years of close connection, as secretary or assistant secretary, to some of the best known London companies, upon the boards of which some of the most experienced and successful men of the Business World have sat, and the author has also had the great advantage of being connected throughout his professional career with auditors and solicitors serving those companies, whose names are, as it were, household words amongst men of affairs.

The author again takes the opportunity of very gratefully acknowledging the many useful suggestions and hints he has received from his friends, more particularly Mr. W. E. Wallace, F.C.I.S., Member of Council of the Chartered Institute of Secretaries; Mr. Chas. Comins, F.C.A.; Mr. Alfred G. Pearson, A.C.A.; and Mr. A. E. Pain, A.C.I.S.

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# Guide for the Company Secretary

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## CHAPTER I

### LEGISLATION REGULATING COMPANIES

THE voluminous legislation of the past seventy years in Company matters occupies a very large proportion of the Statute Book. The formidable Companies Act of 1862, containing no less than two hundred and twelve sections, with its long list of schedules, forms, and appendices, codified the law for the regulation of Limited Companies: other statutes at different dates considerably enlarged the scope of the pioneer, until quite recently some thirty odd enactments of the Statute Book dealt with this important branch of English law. Probably the most important of the Companies Acts passed since the first one above mentioned were the Acts of 1900 and 1907. The requirements of these statutes were very far-reaching and embodied some considerable variations from their forerunners, the result being, for a time, a very marked diminution in the number of Companies annually registered, though these still numbered some thousands every year. Since the termination of the Great European War, there has been quite a boom in company registration, the registrations in the United Kingdom for the second half of 1919 being nearly six thousand, with a capital of about £260,000,000.

It must be admitted that the numerous statutes dealing with this important branch of our business methods, whether commercial, industrial or financial, rendered their application in practice particularly difficult. With the view of remedying this drawback, a Committee appointed by the Board of Trade suggested a consolidation of the various Acts of Parliament into one homogeneous whole. Acting upon this suggestion, Parliament passed a new statute known as The Companies (Consolidation) Act, 1908. The new Act came into operation on January 1st, 1909, but did not alter in any way the provisions of the sixteen different statutes it repealed.

A later amending Act, known as The Companies Act, 1913, has been passed into law. This measure deals solely with the requirements to be observed by private companies and clears up

some ambiguous points in regard to them which existed in the Act of 1908. In 1917, two further Acts were passed, viz., the Companies (Foreign Interests) Act, and the Companies (Particulars as to Directors) Act. The Acts of 1908, 1913, and 1917 are to be read and construed as The Companies Acts, 1908 to 1917. The provisions of the amending statutes will be dealt with in their appropriate places.

The Committee at the same time drew up a revision of the "Table A" scheduled in the Act of 1862, intended as a model upon which Articles of Association for the management of Companies should be framed. This revised "Table A" appeared in the *London Gazette* of July 31st, 1906, and is drawn up in such a form as will greatly facilitate the general working of a Company's affairs, if the form be adopted by such Company when drawing up its Articles of Association. "Table A" only applies as a statutory regulation to those Companies registered without special Articles. The Consolidation Act and the Acts of 1913 and 1917 are, for the convenience of our readers, reproduced *in extenso* as appendices to this work. "Table A," referred to above, is included as the first schedule to the first Act, and will prove of the greatest use to students. Frequent reference will be made to the various sections of the Acts and to the clauses of the Table.

Another and a much older statute is still in existence, The Companies Clauses (Consolidation) Act, 1845. This measure has no connection with the Companies Acts, 1908 to 1917. It was framed, and is still in operation for the control of such companies as are formed for the purpose of carrying out some of the better known public services such as railways, canals, docks, gas, electric light or water companies. But every company governed by this Act is in itself the subject of a special statute, and thus such companies become known as "parliamentary companies" or "statutory bodies." All parliamentary companies are constituted upon the provisions of the Act of 1845 unless the particular provisions of any company thus formed expressly depart from or exclude any provisions of the Act. This is also given as an appendix.

With the law as at present constituted, the well-informed Company Secretary has a good deal of ground to cover to gain the necessary knowledge for the formation and management of his Company. It will be assumed throughout the following chapters that he is

associated with the whole of the business prior to its actual formation into a Company ; that he will act as the general confidant of the founder or promoter, though his position will not, of course, officially exist until after the actual registration or incorporation of the Company, when he will be appointed by the Directors who have been chosen by the signatories to the Memorandum of Association for the conduct of the Company's affairs. His appointment will be made at the first meeting of the Directors, and will probably be in a confirmatory sense, his selection having been previously decided upon.

At the outset, let it not be overlooked that this position is no sinecure. He is personally liable for many fines and penalties for non-compliance with several requirements of the statutes. By the Act of 1908, sec. 281, he is made liable, should his name appear on the face or any part of a prospectus inviting subscriptions for shares from the public, or on a report, balance sheet, or certificate containing a false statement, he knowing it to be false, to summary conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine not exceeding £100. This is a provision made to prevent the many preposterous impositions made by fraudulent promoters, and is here quoted in order to impress the would-be Company Secretary with the necessity of being fully alive to the responsible nature of his calling. From it, he will see that not only may he suffer from his own negligence but from the negligence or fraudulent intentions of such persons as may be associated with him in his operations in Company work.

It will behove the Secretary to master thoroughly the broad questions of Company law, so that he may at all times be in possession of that information which will aid his Directors to conduct properly the affairs of the Company. Directors are doubtless subject to heavier pains and penalties than the Secretary, but he will almost invariably be held to blame should irregularities occur. He will find, too, that many Directors are not too well informed of the nature of their calling and that some are not too anxious at any time, even in the most complicated cases, to seek the advice of the Company's Solicitor. It is at such times that the well-informed Secretary is able to prove his worth, and we shall endeavour to help him on his way in the following chapters dealing with the subject of a Company's existence from the period

of its inception, with the proposal and details of formation, to the period of reconstruction or winding up.

The official post of Secretary is nowhere specifically defined by the statutes, despite their voluminous and complicated character. The position is, however, in several instances recognised. At Common Law, he would be regarded as an agent of the Company employed to carry out the orders of the Directors, generally to supervise the clerical work, to regulate and record the financial affairs, to prepare agenda sheets and record properly in the Minute Book all the proceedings of the Board and the shareholders. Usually, too, in Companies of moderate dimensions, he is held responsible for the keeping of books of account; again, in many of the larger companies a separate official is responsible to him for the accounting system in use, whilst it is not uncommonly found that the organisation and maintenance of the whole of the accounts depend almost solely upon him. It is thus quite essential that he should have a good knowledge of accountancy, in view of the fact that he is always required to interpret efficiently the various financial and trading returns submitted for the Board's consideration, whether these documents are prepared under his direction or supervision or not. With this latter subject it will not be possible to deal within the compass of one treatise, and we shall confine ourselves, therefore, to the duties and to the usually accepted form of work of a strictly Secretarial nature, such matters as relate to promotion and incorporation; the memorandum and articles of association; the conduct and procedure at Meetings of both Shareholders and Directors; the preparation of Agenda and Minute Books; the preparation of statutory returns and the requirements as to registration and filing, the drafting and presentation of reports, accounts and statistics; "private" companies; the application for and allotment of shares, their transfer, and the books for registration of the members' holdings; the issue of debentures and the exercise of borrowing powers. Explicit instructions for the Secretary's guidance will be given in connection with these and most of the multifarious duties which occur in the daily routine of a Company's existence.

Since the outbreak of war in 1914, much legislation has been passed. The relevant sections of that concerning Trading with the Enemy, Payment of dividends, Registration of new companies, and new issues of capital are given in Appendix F.

## CHAPTER II

### THE PROMOTION, CONSTITUTION AND INCORPORATION OF COMPANIES

THE objects for which a Company is formed are many and various. It may be for the acquisition of concessions granted by a State, the taking over of a manufacturing or industrial enterprise as a going concern, the carrying out of financial schemes, or for purposes of insurance and banking. Even charitable undertakings have been registered under the Companies Acts. Railways, Gas, Water, and Electric Light Companies are usually regulated by special Acts of Parliament. Banking and Insurance Companies, too, are governed by particular statutes such as the Banking Companies (Shares) Act, 1867, and the Life Assurance Acts of 1870, 1871, 1872, and 1909, all being distinct from the Companies Acts, 1908 to 1917. The majority of companies registered are those formed for the purposes of carrying on industrial, commercial, or mining concerns.

For example, we will assume that a Company is about to be formed for the purpose of acquiring a manufacturing business which we will call, for the sake of illustration, "The Metropolitan Manufacturing Company, Ltd." We will assume that the business in question is being formed into a Company for the purposes of widening its sphere of action and to raise the necessary additional capital. It is also proposed, in view of the successful working of the business in the past, to apply for a Stock Exchange Settlement and quotation so soon as the necessary formalities have been completed and the Company successfully floated.

A form of proposal is first drawn up, setting out in the following order :—

- (1) The name of the new Company, as "The Metropolitan Manufacturing Company, Limited."
- (2) The position, extent and description of the business as at present constituted.
- (3) The amount of capital it is proposed to seek to be authorised and the manner in which the capital is to be divided, i.e., whether Preference, Ordinary, Deferred Ordinary; also

whether it is proposed to issue Debentures in addition to the share capital, with the terms upon which the Debentures will be issued.

- (4) The nature of the consideration required for the purchase of the undertaking, whether cash or shares, stating fully the amount of cash and the number and class of shares, also stating whether the vendor will bear any or all of the expenses of formation and up to what point (usually to allotment).
- (5) Particulars as to any proposed agreements with third parties for the purpose of underwriting the shares about to be issued for public subscription, to what extent, and upon what conditions.
- (6) Description and duration of powers exercised by the person or persons offering the business, and if acting as Principal or Agent.
- (7) Information as to whether the business has been previously proposed to be formed into a Company and, if so, with what result.
- (8) The full names and addresses of the person or persons owning the business.
- (9) A list of papers accompanying the proposal as (a) Balance Sheets and Profit and Loss Accounts for a period of three to five consecutive years immediately preceding the current financial year of the business, certified by auditors of established repute; (b) an inventory of plant, machinery and stock; (c) plans of all buildings and property to be acquired; and (d) a valuation of such property and effects, signed by a competent valuer.
- (10) General remarks.

The form would conclude with the signatures of all the principals of or parties to the business, and concerned in the flotation.

Numerous meetings and discussions between the founders, solicitors, auditors, and brokers will occur, at all of which the prospective Secretary should be present, and he should lose no opportunity to note carefully and preserve all details in connection with these affairs. The Prospectus and the Memorandum and Articles of Association will have to be drafted, and all original and revised copies of these should be carefully preserved and the date of meeting marked

upon each. At this juncture, the Secretary will be well advised to study Part One of the Act and, more particularly, secs. 80 to 84, dealing with the Prospectus; as well as "Table A." He should thoroughly familiarise himself with these points. More particularly he should closely study and compare the "table" with the Articles of Association as drafted, or accepted for his company. This will be of the greatest assistance during the important negotiations prior to the application to the Registrar of Joint-Stock Companies for registration of the Company. Although these matters are usually entrusted to the care of the Company's Solicitor, a thorough grounding in the legal requirements in this connection will, nevertheless, be of the greatest assistance to all concerned. The Secretary will probably be required to prepare at least two copies of the Prospectus, each bearing the actual signatures of the bankers, brokers, and auditors, and the engineers, valuers, prospectors, or such experts as may be named thereon. One of these signed Prospectuses should be filed with the Registrar by the Solicitor: the other the Secretary would retain and carefully preserve. The Directors named upon the Prospectus are required to sign a special form giving their consent to act as Directors to the Company. By section 82, Companies not filing a Prospectus are now required to fill in and file the form given as the second schedule to the Act. "Private" Companies are exempt from filing a prospectus of any sort.

It will be seen from a perusal of this section, one of the most important features of the Act, that very great care indeed has to be devoted to the preparation of a Prospectus. Every detail should be carefully discussed with the legal advisers to the proposed Company. At this stage, section 84 should be carefully gone through, as certain rights are conferred therein upon such persons as apply for shares in response to invitations to the public to subscribe.

The object in issuing a Prospectus is to obtain money from the public to provide the necessary capital, and to attain this object it will obviously be necessary to give as glowing an account as possible of the past records of the undertaking, and to foreshadow the healthiest prospects of increasing those good results with the additional capital at the disposal of the directorate; though the greatest possible care must be taken as to the veracity of all matters mentioned in this all-important document.

Upon the Companies Act of 1862 coming into force, it became unlawful for any association, company, or partnership consisting of more than ten persons to carry on the business of bankers, or for a similar coalition of more than twenty persons to carry on any other business for the purpose of profit, without such combination being registered under the Act; by section 2 of the Act any seven or more persons can be incorporated as a company under the Act with limited or unlimited liability. Since the 1st July, 1908, by the provisions of the Companies Act, 1907, a "private" company consists of two persons as a minimum. The statute defines a "private" company. (Sec. 121.) If the Company is incorporated with "limited liability," the word "Limited" must usually be employed as the last word in the name of such Company. The term "limited liability" implies that the liability of such members or shareholders as constitute the Company is confined to the amount represented by the nominal amount of each share taken up or agreed to be taken up by each member. Thus, if John Jones holds fifty shares of £1 each in John Jones, Limited, and the full sum of fifty pounds has been paid on those shares, or the shares have been issued to him as fully-paid shares, then his liability on those shares is fully satisfied. On the other hand, if John Jones had applied for these fifty shares, paying five shillings per share with his application, and another five shillings per share when the shares were allotted to him, or if the shares had been allotted to him as 10s. paid up, then he would be liable in either of these two cases for the remaining 10s. per share; and (a) should he not comply within the time specified by the Articles of Association to pay the "call" or "calls" for the remaining 10s. per share, the Directors have power to forfeit the shares allotted to him, and he would forfeit the money paid upon them, or (b) in the event of the Company becoming insolvent, and being in process of winding up, he can be compelled by the liquidator to pay the balance on the shares.

A Company may also be registered in any one of the three following ways:—

- (1) With unlimited liability;
- (2) With liability limited by guarantee and not having its capital divided into shares; and
- (3) With liability limited by guarantee with capital divided into shares.



Unlimited companies are exceedingly rare and for the purposes of this work we need not stop to consider them. A company limited by guarantee is one formed not for the purposes of gain. The latter mostly represents the constitution or incorporation of societies, clubs and such like bodies depending upon subscriptions from their members. The principle of guarantee is one which represents a liability of any member to contribute to the assets of the company only in the event of a winding up, and is consequently a reserve liability. The liability of the members is limited to the amount which must be expressed in the memorandum of association as the amount thus to be guaranteed in such event. Where a company is registered with share capital, its amount and division must be stated in the memorandum. The word "limited" is to appear at the end of the name of each company so registered, but by sec. 20 licence may, in certain circumstances, be obtained from the Board of Trade for the omission of the word "limited."

It is very important to point out that any provision contained in the memorandum, or articles, or in any resolution of a company limited by guarantee, purporting to give any person, except as a member, the right to participate in a division of profits is by sec. 21 (1) void.

The seven or more persons (usually not more), or two, in the case of a "private" Company, desiring to be formed into a company are required to prepare a document known and defined by the Acts as the Memorandum of Association, which may be in writing, or printed, or partly written and partly printed. This is to contain:—

(1) The name of the Company with the word "Limited" at the end.

(2) The situation of the Registered Office in the United Kingdom, and whether in England, Ireland, or Scotland. (Wales is considered as part of England for this purpose.)

(3) The objects and possible objects for which the Company is being formed (to be given very fully).

(4) A declaration that the liability of the members is limited.

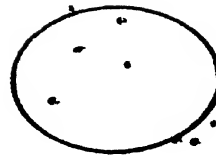
(5) A statement of the nominal capital of the Company with the number of shares and value of each (not necessarily each class of share).

The Memorandum is then signed by each of the seven persons, or two persons for a "private company," (generally designated

Form 1.

No. of  
Certificate } 591235

COMPANIES ACTS, 1908, TO 1917.



A 1/2  
Companies  
Registration  
Fee Stamp  
to be  
impressed  
thereon

DECLARATION of Compliance with the requisitions  
of the Companies Act, made pursuant to s. 17 (2) of  
the Companies (Consolidation) Act, 1908 (8 Edw.  
7 Ch. 69) on behalf of a Company proposed to be  
registered as

*The Barchester Distilleries, Limited.*

Presented for filing by

*Emanuel Eames,*

*9 High Street, Barchester.*

**Form 1 (continued).**

I *Cornelius Clump*  
of 3856 *Temple Lane, Kings Walk, E.C.*

(a) Here insert  
"A Solicitor  
of the High  
Court engaged  
in the formation  
of the formation."

Do solemnly and sincerely declare that I am <sup>(a)</sup> a  
*Solicitor of the High Court engaged in the formation*

"A director  
(or Secretary)  
named in the  
Articles of  
Association."

of *The Barchester Distilleries,*

Limited, and That all the requisitions of the  
Companies (Consolidation) Act, 1908, in respect of  
matters precedent to the registration of the said  
Company and incidental thereto have been complied  
with. And I make this solemn Declaration  
conscientiously believing the same to be true and  
by virtue of the provisions of the "Statutory  
Declarations Act, 1835."

Declared at 449 *Pump Walk,*  
*Temple, E.C.*

the first day of *April*  
one thousand nine hundred and

*Cornelius Clump.*

Before me,

*Daniel O'Dowd.*

A Commissioner for Oaths.

"the signatories"), with their full names, addresses, and descriptions, their occupations (if any), and the number of shares agreed to be taken by each. If Directors sign the memorandum, and their qualification to act as Directors is stipulated in the Articles of Association (to be described later) as the holding of any given number of shares, then that number of shares should be placed beside their names. If this is not done, directors must sign and file with the Registrar a contract in writing to take from the Company and pay for, their qualification shares. It is required by sec. 91, subsec. 1 (a) that this Memorandum with the list of signatories and their holdings of shares be printed in full on the Prospectus.

The Articles of Association of a Company may be regarded as a code of regulations for the controlling of its particular affairs. The distinction between the "Memorandum" and "Articles" of Association may be best stated by terming the former the charter of incorporation of a company, and the latter the company's by-laws which are framed for its administration and define the rights and duties of its officers and members. The third schedule to the Act should be closely studied. Form A gives a full Memorandum of Association for a company limited by shares, with the exception that the third clause is merely a reference to the objects of the company. Actually the "objects clause," as it is usually termed, is subdivided into twenty-five or thirty or even many more clauses. Form B of the schedule gives a suggested outline for Memorandum and Articles of Association of a Company limited by guarantee and having no share capital. Form C deals with memorandum and articles for a company limited by guarantee with a share capital. The last section of the schedule, Form D, deals with the memorandum and articles of an unlimited company. A perusal of these various forms will convey to the student a fairly thorough idea of the constitutions of these lesser known classes of companies. They will be found on pp. 366-367. The revised "Table A" is a good model of most of the Articles of Association as now adopted, but these articles may be varied to a very great extent. Once adopted, however, they cannot be departed from in the slightest degree except by the passing of a "Special Resolution" and its confirmation in manner required by the statutes, a troublesome and costly process in a large Company with a numerous membership. It will, therefore, be well to see

that the Articles of Association are so framed as to preclude the smallest possibility of revision being afterwards required. To give an adequate idea of even half the ground covered by this portentous document would occupy a great deal of our space, but, once formulated, the Secretary must thoroughly acquaint himself with all its provisions, for it sets forth, so to speak, his *modus operandi*. The revised "Table A" itself contains one hundred and fourteen clauses, and it is unlikely that any set of Articles of a Company of any importance would be framed with less. Each member of the Company is entitled to a copy of the Memorandum and Articles upon the payment of a sum not exceeding one shilling, and the effect of the Articles upon its members is binding, as all members are deemed to have had notice of the provisions contained therein. The several Articles must be printed, given as separate paragraphs and must be numbered in serial rotation; they should also be indexed, though unfortunately this is not always done. In the succeeding chapters we shall have occasion to refer repeatedly to the provisions of the Articles.

The fees for registration and incorporation of companies will be found under Table B of the first schedule of the Act (see page 356), following immediately after Table A.

Before steps are taken for the registration of a Company, reference should be made to the emergency legislation relating to Trading with the Enemy, Registration of new companies, and New issues of capital. (See Appendix F.)

## CHAPTER. III

### DIRECTORS, THEIR RIGHTS AND DUTIES

AMONGST the many defunct and existing statutes of the law of joint-stock companies, no precise definition of the word "Director" has as yet been given. The term is, nevertheless, very frequently employed in them. One old statute, the Directors' Liability Act, 1890, now included as section 84 of the Consolidation Act, deals principally with Directors' rights and duties. By common usage a Director has now come to be regarded as that person to whom powers are delegated by common consent of his fellow-shareholders, such powers being prescribed by the Company's Articles, which set forth also the conditions upon which he holds office. The duties of a Director may be regarded as those appertaining to one who occupies practically the post of, and carries out the functions of, an active partner of a firm, the other shareholders being the equivalents of sleeping partners.

Directors may be said to be particular agents of the Company, their Principals being the general body of shareholders for the time being. They are particular agents insomuch that their general powers are restricted to the powers conferred upon them by the Company's regulations; and, moreover, their acts are naturally confined to the limitations of the objects of the Company's existence set out in its Memorandum of Association. The projects of the Company itself may not exceed the scope of the objects for which it has been promoted; hence the necessity for the Memorandum of Association being worded in a very wide and inclusive manner.

The first Directors of a Company are commonly appointed by a majority of the signatories to the Memorandum of Association, but not necessarily at a meeting of the signatories; a document stating the names of the Directors appointed, with their addresses and descriptions, signed by a majority of the persons subscribing their names to the Memorandum will be sufficient. The Directors appointed must, however, have agreed to take up their qualifying number of shares, if any, to become eligible, and, if the Company is issuing a Prospectus, they will also be required to sign a form [sec. 72 sub-sec. 1 (1)] which may be obtained at any law stationers,

stating their willingness to act as Directors of the Company. This form must be presented with the Memorandum and Articles of Association, and the Prospectus, when application is made to the Registrar for the certificate of incorporation of the Company. They are also required to sign and file with the Registrar at the same time a contract to take up and pay for any qualification shares required by the Articles, unless they have signed the memorandum for the necessary number.

There is a fee of 5s. upon the form for consent to act and a fee of 5s. upon the contract to take shares : with an additional stamp of 6d. for each signature to that form if the qualification shares are for £5 or over.

The Articles of Association always contain a clause dealing with the number of Directors to be appointed, setting forth the maximum and minimum. These limits must, therefore, be strictly adhered to. The number to form a quorum should also be provided for ; if no provision for a quorum is made in the Articles, the Board will decide amongst themselves as to the number of Directors present which shall constitute a meeting and also the manner in which their meetings shall be convened.

The remuneration of the Directors is to be fully set out in the Articles of Association, and also in the Prospectus, which latter document must also contain full particulars of any pecuniary interest the Directors may have in the promotion of the Company, with a statement of any sums accruing, or paid, to each of the Directors and the consideration therefor.

Unless the Articles permit, the Directors are not entitled to charge the Company with their travelling expenses incurred when transacting the Company's business.

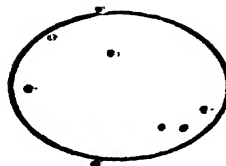
The provisions of section 84, previously referred to, are very severe, though this cannot be greatly wondered at, in view of the many fraudulent flotations in past years, now happily comparatively infrequent ; these provisions are not only aimed at Directors but at all responsible persons concerned in the issue of a Prospectus.

The Secretary should very closely study the lengthy provisions of this very important section. In this connection the case of *The Brazilian Rubber Plantations* (1910, 27 T.L.R.) should be noted, where it was decided that a director is expected to act with reasonable care according to his knowledge and experience, though

Form 2.

No. of  
Certificate 149185

COMPANIES ACTS 1908 TO 1917.



A 5/-  
Companies'  
Registration  
Fee Stamp  
to be  
impressed  
here.

CONTRACT by a Director to take qualifying shares  
in *The Bahia and Accra Oil Company,*

Limited

to be signed and filed pursuant to the Companies  
(Consolidation) Act, 1908.

Presented for filing by

*Rodrick Buchanan,*

*999 Budge Lane, E.C.*



Form 2 (continued).

*The Bahia and Accra Oil Company, Limited.*

"(a)" "I" or We, (a) the undersigned *Andrew Anderson, Bertram Benderson, Carlos Capperli and Dennis O'Dougherty*, of *9 Sparkhill Park, Birmingham; The Manor House, Dulwood, Notts; 9 Threadneedle Row, E.C., and Claydale, co. Mayo, respectively* having consented to act as Directors of *The Bahia and Accra Oil Company, Limited*, hereby, severally undertake and agree to take from the said Company and to pay for shares of the Company of the nominal value of *twelve thousand (£12,000) pounds*, this being the amount fixed by the Articles of Association of the Company as the qualification of a Director of the Company.

Dated this *first* day of *April*, 19\_

Signed by the said

*A. Anderson*

*Andrew Anderson.*

*B. Benderson*

*Bertram Benderson.*

*C. Capperli*

*Carlos Capperli.*

*D. O'Dougherty*

*D. O'Dougherty.*

in the presence of

*Roderick Buchanan,*

*999 Budge Lane, E.C.*

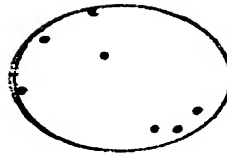
*Chartered Secretary.*

NOTE.—This Agreement must be stamped with duty 6d., to be denoted either by an adhesive stamp over which the Director should sign, or by a stamp impressed within fourteen days of the date of the Agreement. A stamp is required for each signature.

Form 3.

No. of  
Certificate 149185

COMPANIES ACTS, 1908 TO 1917.



A 5/-  
Companies'  
Registration  
Fee Stamp  
must be  
impressed  
here.

List of the Persons who have consented to be  
Directors of\_\_\_

*The Bahia and Accra Oil Company, Limited,*  
to be delivered to the Registrar pursuant to  
s. 72 (2) of the Companies (Consolidation) Act, 1908  
(8 Edw. 7, c. 69).

Presented for filing by

*Roderick Buchanan,*

*999 Budge Lane, E.C.*

Form 3 (continued).

To the Registrar of Joint-Stock Companies :—

(a) "I" or  
We."

(a) I, the undersigned, hereby give you notice, pursuant to s. 72 (2) of the Companies (Consolidation) Act, 1908, that the following persons have consented to be Directors of

*The Bahid and Accra Oil Company, ———*

Limited

Name.	Address.	Description.
<i>Andrew Anderson.</i>	<i>9 Sparkhill Park, Birmingham</i>	<i>Director of the Midland Bank- ing Corporation</i>
<i>Bertram Benderson</i>	<i>The Manor House, Dulwood, Notts</i>	<i>Colonel (retired)</i>
<i>Carlos Capperli</i>	<i>9 Threadneedle Row, London, E.C.</i>	<i>Stockbroker</i>
<i>Dennis O'Dougherty</i>	<i>Claydale, co. Mayo</i>	<i>Engineer</i>

Signature, Address and  
Description of Applicant  
for Registration.

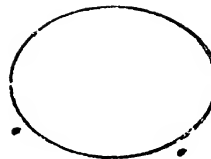
*Roderick Buchanan,*  
*999 Budge Lane,*  
*E.C.*  
*Chartered Secretary.*

Dated this *first* day of *April*, 19\_\_

Form 4.

No. of  
Certificate } 149185

COMPANIES ACTS, 1908 TO 1917.



A Companies'  
Registration  
Fee Stamp  
to be  
impressed  
here.

CONSENT to act as Director of *The Bahia and  
Accra Oil Company*

Limited,

to be signed and filed pursuant to s. 72 (1) (i)  
of the Companies (Consolidation) Act, 1908 (8<sup>Edw.</sup> 7,  
Ch. 69).

Presented for filing by

*Roderick Buchanan,*

*999 Budge Lane, E.C.*

To the Registrar of Joint-Stock Companies :—

(a) Here insert : "I" or "We."  
(b)  
Here insert :  
"My" or  
"Our."

(a) We, the undersigned, hereby testify (b) our  
consent to act as Directors of *The Bahia and Accra*  
*Oil Company*,

Limited,

pursuant to s. 72 (1) (i) of the Companies  
(Consolidation) Act, 1908.

(c) If a Director signs by "his agent authorised in writing," the authority must be produced and a copy filed.

(c) Signature.	Address.	Description.
<i>Andrew Anderson</i>	<i>9 Sparkhill Park, Birmingham</i>	<i>Director of the Midland Banking Corporation</i>
<i>Bertram Benderson</i>	<i>The Manor House, Dulwood, Notts</i>	<i>Colonel (retired)</i>
<i>Carlos Capperli</i>	<i>9 Threadneedle Row, London, E.C.</i>	<i>Stockbroker</i>
<i>Dennis O'Dougherty</i>	<i>Claydale, co. Mayo</i>	<i>Engineer</i>

Dated this *first* day of *April*, 19*..*

he is not expected to possess any special qualifications nor is he to be held responsible for errors of judgment

Statutory duties of directors or of companies for which the directors and the secretary may be held primarily responsible, in many cases personally may be succinctly summarised as follows. The various points will be fully dealt with at appropriate points throughout this work, and by reference to the various sections of the Act :—

Sec. 25	Register of Members.
„ 26	Annual List of Members.
„ 63	Name of Company.
„ 64	General Meetings.
„ 65	Statutory Meetings and Reports.
„ 75	Register of Directors.
„ 80	Filing of Prospectus.
„ 81	Contents of Prospectus.
„ 85-6	Allotment Restrictions.
„ 87	Commencement of Business.
„ 88	Returns of Allotments.
„ 92	Issue of Share Certificates.
„ 93	Registration of Mortgages.
„ 100	Register of Mortgages.
„ 112	Appointment of Auditors.
„ 113	Information for auditors and signatures for balance sheets.

## CHAPTER IV

### REGISTERED OFFICE AND NAME OF THE COMPANY

It has already been stated (*see supra* 9) in dealing with the Memorandum of Association, that all Companies are required to state therein the situation of the office, *i.e.*, in which of the three political Divisions of the United Kingdom, England, Scotland, or Ireland, it is situate. This is always the subject of the second clause of the Memorandum of Association. Section 62 of the Companies Act, 1908, further provides that the Registered Office must be registered. In the case of an English Company, the place of registry is Somerset House, and a registration form may be obtained there or from a law stationer. A change of address in respect of the Company's chief place of transacting its business must also immediately be notified to the Registrar of Joint-Stock Companies on the stipulated form, a fee of five shillings being payable for each notification filed. Default in complying with this regulation renders the Company liable to a penalty of five pounds per diem, though it is difficult to understand why the Company should bear the burden when such neglect would clearly lie upon the shoulders of its responsible officials. It is a matter of surprise that this strange anomaly has not been remedied ; the section above quoted is, however, more express in its purpose than the old one.

The service of summonses, writs, and any communications of a legal nature would not be a service having any effect in the eyes of the law unless such documents were served at the Registered Office, their service at any other address at which the Company carries on business being invalid. If no such registration, however, has been effected, the service of writs, petitions, or notices will hold good if served at some place where it is known that the Company's affairs are, or have been transacted. Where it is sought to present a petition to wind up, information from the Court must be obtained as to where the petition is to be served, in the absence of a Registered Office.

Every Company is required to have its full title prominently and legibly inscribed on the outside of its Registered Office and at

Form 5.

No. of Certificate 78519

THE COMPANIES ACTS, 1908 TO 1917.



A 5/-  
Companies  
Registration  
Fee Stamp  
must be  
impressed  
here.

Notice of Change in the Situation of the Registered Office,  
of *The Spinwell Cotton Mills Company,* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_. Limited.

(Pursuant to Section 62 of the Companies (Consolidation) Act, 1908.)

Notice of any Change in the Situation of the Registered Office must be Registered.

A Penalty of £5 per day is incurred by Company for not having a Registered Office.

Presented for filing by

*Ebenezer Etheridge,*

*9 The Holt, Oldham.*



NOTICE.

Of Change in the Situation of the Registered Office of  
*The Spinwell Cotton Mills Company,*  
Limited.

TO THE REGISTRAR OF JOINT STOCK COMPANIES,

*The Spinwell Cotton Mills Company,*

Limited, hereby give

you notice, in accordance with The Companies (Consolidation)  
Act, 1908, that the Registered Office of the Company is  
now situated at 9 The Holt, Oldham, in the County of  
Lancashire.

(Signature) *Ebenezer Etheridge*

(Officer) *Secretary*

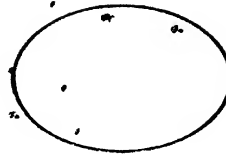
Dated *first* day of }  
*April,* 19.. }

This Notice must be signed by a Director, Manager, Secretary, or other  
authorised Officer of the Company.

Form 6.

No. of Certificate 148,193

THE COMPANIES ACTS, 1908 TO 1917.



5/-  
Company's  
Registration  
Fee Stamp  
must be  
impressed  
here.

Notice of the Situation of the Registered Office  
of *The Excalibur Small Arms Corporation,*

Limited.

(Pursuant to Section 62 of the Companies (Consolidation) Act, 1908,)

This Notice must be signed by a Director, Manager, Secretary, or other authorised Officer of the Company, and impressed with a 5s. fee stamp before Registration.

Notice of any Change in the Situation of the Registered Office must be Registered.

A Penalty of £5 per day is incurred by Company for not having a Registered Office.

Presented for filing by

*Roland Rowlands,*

*9581 Cheap Street, E.C.*

Form 6 (continued).

NOTICE

Of the Situation of the Registered Office of *The*  
*Excalibur Small Arms, Corporation,*

Limited

TO THE REGISTRAR OF JOINT-STOCK COMPANIES,

*The Excalibur Small Arms Corporation, \_\_\_\_\_*

Limited hereby give  
you notice, in accordance with The Companies (Consolidation)  
Act, 1908, that the Registered Office of the Company is situated  
at 9581 Cheap Street, London, E.C. ...

(Signature) *Roland Rowlands.*

(Officer) *Secretary.*

Dated *first* day of  
*April.* 19..

every other place where its business is carried on. The Company's correct and full title must appear on all notices or documents issued by it for whatever purpose. All cheques, notes, bills of exchange, advertisements of any kind, and orders for goods signed or purporting to be signed on the Company's behalf must bear the Company's full name in legible characters. Neglect to conform to this requirement will render any person or persons signing such a document personally liable as though it were actually signed on his or their own behalf, in addition to incurring the liability to an imposition of the penalty last mentioned, of five pounds per day during such time as the omission remains uncorrected. [See section 63 (3).] It has been held that *Ltd.* is allowable as an abbreviation for *Limited* in the name of the Company.

A Company may not change its name except by special resolution which must receive the sanction of the Board of Trade. The change does not become effective until a certificate is issued by that authority and has been entered upon the Companies register at Somerset House. When effected, any such change does not in any way relieve the Company from any obligations which it bore under its old name; nor, on the other hand, does it deprive it of its former rights and privileges. Again, any litigation which may be in progress, and in which the Company may be involved, is not affected by a change of name.

The place of registry for Companies registered in Scotland is Exchequer Chambers, Parliament Square, Edinburgh; and in Ireland, registration is effected at the Custom House, Dublin.

## CHAPTER V

### SHARE CAPITAL

THE Prospectus and the Articles will give particulars as to how the nominal or share capital will be divided. It sometimes happens, however, though only in the case of very small concerns, that the whole of the capital is represented by one class of share. The fifth clause of the Memorandum of Association will contain particulars of the constitution of the Company's authorised, or nominal, share capital, specifying the total amount, the classes of shares, and the nominal amount of each. The Articles will more fully define the relative character and relationships of one class as compared with another, setting out also the full conditions of payment, dividends, priorities, etc. In this connection clauses 3 to 5 of Table A (see page 342), which will convey some idea of the provisions of the Articles of Association, should be consulted. Where shares are divided into different classes, the respective rights of shareholders, e.g., as to dividends, return of capital in liquidation, if stated in the Memorandum of Association, are unalterable unless the Memorandum of Association authorises alteration, or where the capital is re-organised under sec. 45, or under a scheme of compromise or arrangement under sec. 120.

Where there is nothing prohibitory in the Memorandum of Association the rights may be defined in the Articles of Association and are then alterable.<sup>1</sup>

In almost every Company offering its shares to the public will be found two or more kinds of shares making up its authorised capital.

- (1) *Preference Shares* may be either of the cumulative or non-cumulative variety. In both cases they carry a fixed rate of dividend, such dividend to be paid in full should the profits permit, before any distribution of profits to holders of other shares is made. Cumulative Preference or Cumulative Preferred Shares, by whichever name they are called, give the holders the right to any arrears of dividend

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<sup>1</sup> See, however, the Companies (Foreign Interests) Act, 1917, in Appendix D.

Form 7.

Number of Certificate 481947.

THE COMPANIES ACTS, 1908 TO 1917.

Notice of Increase in the Nominal Capital  
of *The Burntwood Ironworks Company, \_\_\_\_\_*

Limited.

*Pursuant to Section 44 of the Companies (Consolidation) Act, 1908.*

This Notice must be sent to the Registrar within 15 days from the date of the passing, or in the case of a Special Resolution, the confirmation, of the Resolution by which the Increase has been authorised, under a penalty of £50 per day for default.

A Statement of the increase of the Nominal Capital must be filed pursuant to s. 112, Stamp Act, 1891, as amended by s. 7 of the Finance Act, 1899. If not so filed within 15 days of the passing of the Resolution, interest on the duty at the rate of 5% per annum will be charged by virtue of s. 5 of the Revenue Act, 1903.

Presented for filing by

*Titus Tizard,*

*1 Brownlow Buildings,*

*Burntwood.*

NOTICE

Of increase in the nominal Capital of  
*The Burntwood Ironworks Company,*

\_\_\_ Limited.

TO THE REGISTRAR OF JOINT-STOCK COMPANIES.

*The Burntwood Ironworks Company,* \_\_\_\_\_  
\_\_\_\_\_, Limited, hereby give  
you notice, in accordance with The Companies (Consolidation)  
Act, 1908, that by a *Special* Resolution of the Company  
passed the *first* day of *March*, 19..,\* and confirmed  
the *twenty-first* day of *March*, 19.., the nominal Capital  
of the Company has been increased by the addition thereto  
of the sum of *one hundred thousand* pounds divided into  
*one hundred thousand* Shares of *one pound* each; beyond the  
present Registered Capital of *four hundred thousand*  
\_\_\_\_\_ pounds.

*it us. Tizard,*

Dated the *first* day  
of *April*, 19..

*Secretary.*

\* When the Resolution is not required to be confirmed, the words "and confirmed the—day of—, 1—," should be struck out.

\* \* \* This notice is to be signed by a Director, Secretary, or other authorised Officer of the Company.

from former years before any profits accrue to the holders of other varieties of shares ranking next in order. Non-Cumulative Preference Shares would, as their name implies, carry no preference except and only in the year under review. It is occasionally provided that, after satisfying the rights of the Preference Shareholders as to dividend, and paying a certain specified dividend upon Ordinary or other shares ranking after them, such Preference Shareholders shall become entitled to a further participation in the profits on a sliding scale. Preference Shares also generally carry a priority to return of capital in the process of distributing the assets of a Company in winding up, after payment of the trade liabilities or such debentures as may exist, but for this, special provision must be made. It may be noted that, if there is nothing in the words creating such shares which expressly or impliedly limits their rights and entitles them to be paid only out of the profits of each year, it will be inferred that the dividends are cumulative, whether or not the shares are called cumulative.

- (2) *Ordinary Shares* rank next in order to Preference Shares, both as to dividend and as to distribution in winding up. If, however, other classes of shares exist, their exact rights and priorities would be defined in the Articles. Ordinary Shares are variously known as Ordinary, Deferred Ordinary, Founders' Shares, or even Ordinary Shares carrying a fixed rate of dividend, the latter ranking after the Preference Shares and in priority to Ordinary or Deferred Ordinary, as the case may be.

The share capital of Companies is variously referred to as "Nominal," "Authorised," or "Registered" capital: the three terms implying the same thing, namely, that amount of capital with which the Company has been registered. The second term is the one more commonly, or perhaps we should say, more properly applied. "Issued" capital is the term used to express that amount of the authorised capital which has been offered for subscription and taken up by shareholders. Thus a Company may be registered for a given sum in authorised capital but its promoters deem it



expedient to offer only a portion of that capital for immediate requirements, the residue being termed "Unissued capital." Share capital referred to as "Paid Up" is sometimes used to mean "Issued" capital, but it has been claimed that such a term is inadvisable except in cases where the whole of the instalments have been received, leaving no necessary deductions in the form of unpaid calls. In such instances it is certainly more proper to use the expression "Issued" capital. Where no calls are outstanding the term "Capital Issued and Paid Up" is frequently found.

A share in a Company may be regarded as that measure in money expressing the unitary constitution of a company's capital liability, denoting at the same time the monetary interest of the holder, in the Company. Property in shares may be acquired either by application and allotment following upon an invitation by the Company to subscribe, or by means of transfer, or purchase on the open market, or by private arrangement with an existing proprietor, the procedure in each case being dealt with in following chapters. The holder of a share may not obtain the return of his money during the existence of the Company; he can only realise his proprietary rights by sale of his share to another, in manner provided by the Company's Articles, and in some cases, where transference is restricted, by consent of the board.

Property in shares confers rights and privileges upon the holder, according to the Articles, as to attending and voting at meetings, inspection of registers of members, directors, or mortgagees, to receive dividends, copies of balance sheets and directors' reports, and any proportionate share in a distribution of surplus assets in a winding up. On the other hand obligations are imposed; he is liable to pay any unpaid calls on his share and this liability may extend to the period of one year after he disposes of it. The possession of a share binds the holder to the provisions contained in the Company's Articles.

Shares, when fully paid, may be converted into stock, *i.e.*, capital not divided into shares but held by the members as "Stock" and being capable of transfer from one person to another in multiples of £1, £5, or other agreed amount, in such manner as the Articles decree (see page 94 *et seq.*). In the case of shares of whatever class, each share has its distinctive number and must always bear this

Form 8.

No. of Certificate 504192.

*The Gamma Properties Company, Limited.*

STATEMENT of the Nominal Capital made pursuant to s. 112 of the Stamp Act, 1891, as amended by s. 7, Finance Act, 1899.  
(NOTE.—The Stamp Duty on the Nominal Capital is Five Shillings for every £100 or fraction of £100.)

This Statement is to be filed with the Memorandum of Association or other Document, when the Company is registered.

Presented for filing by

*Benjamin Budd,*

*99 Cannon House, E.C.*

**Form 8** (*continued*).

The **NOMINAL CAPITAL**, of

*The Gamma Properties Company, Limited*, is £200,000

divided into 200,000 shares of £ *one* each.

Signature *Ronald Rundles*.

Description *Secretary*.

Date *4th* day of *March*, 19..

This Statement should be signed by an Officer of the Company.

Form 9.

No. of Certificate 481,947.

*The Burntwood Ironworks Company, Limited*

STATEMENT of increase of Nominal Capital made pursuant to s. 112 of 54 & 55 Vict., cap. 39, Stamp Act, 1891, and s. 7, 62 & 63 Vict., cap. 9, Finance Act, 1899. (NOTE.—The Stamp Duty on the Increase of Nominal Capital is Five Shillings for every £100 or fraction of £100.)

This Statement is to be filed with the Notice of Increase, registered under Section 44 of the Companies (Consolidation) Act, 1908.

Presented for filing by

*Titus Tizard,  
1 Brownlow Buildings,  
Burntwood.*

Form 9 (continued).

The NOMINAL CAPITAL of

*The Burntwood Ironworks Company, Limited,* has been

increased by the additions thereto of the sum of £100,000

divided into 100,000 shares of £ one each beyond

the Registered Capital of £400,000.

Signature *Titus Tizard.*

Description *Secretary.*

Date *first* day of *April,* 19..

This Statement should be signed by an Officer of the  
Company.

numerical distinction ; thus, for example, a "parcel" of one hundred Ordinary shares might be designated, "101 to 200 inclusive."

A Company may, if its Articles permit, consolidate its shares into units of greater amount ; or, it may subdivide its shares into units of smaller amount. Where no provision exists in the Articles for such courses, the passing of a special resolution is necessary to alter the Articles, after which an ordinary resolution is sufficient for consolidation, but a special resolution for subdivision into shares of a smaller amount. (Sec. 41 (2).) When the object has been attained notice of any such change must be given to the Registrar at Somerset House.

## CHAPTER. VI

### APPLICATION FOR AND ALLOTMENT OF SHARES

ACCOMPANYING the Prospectus are certain forms known as "Application Forms," a specimen of which we give on page 40. A different form will be published for each class of share offered for subscription, and it is very necessary for the sake of quick identification to have these different forms printed on distinctively coloured papers, say, white forms for "Preference Shares;" blue for "Ordinary," and red for "Deferred Ordinary." The bankers to whom the forms and the application money would be sent would in all probability stipulate this precaution. The form should also be provided with ample space at the top right-hand corner in which to insert a number. This will become the identifying number employed both in the Bank Pass Book and in the Applications and Allotments Book, into which all forms will be entered in serial rotation, and where received by the bank these numbers will be given in the pass book. On pages 42-3 will be found suggested forms to be adopted for the application book.

A separate book should be used for each of the different classes of shares, though it will be found useful to employ a loose sheet method in order that a number of clerks may be engaged simultaneously on different sections of the work. On completing the allotment, the several lots may be bound up into their respective books, or it may be found expedient to have these allotment sheets kept loose until the Registers are entered up. The importance of adopting this course will be obvious, as, immediately upon closing the subscription lists, the Directors will hold a meeting for the purpose of making the allotments.

- If the applications turn out to be very numerous and greatly in excess of the number of shares offered, books would be much too bulky to be conveniently handled, if one volume were used for each of the classes of shares. In such a case, the advantage of being able to go through the allotment by taking the application lists in sections

Form 10.

## THE A. B. COMPANY, LIMITED.

Issue of 500,000 £1 Preference Shares.

Form of Application

A.F.

No.

*For official use only.*

Date

19..

To the Directors of

The A. B. Company, Ltd.

GENTLEMEN,

I enclose herewith (or, I have this day paid to your bankers) the sum of \_\_\_\_\_ being the required deposit of five shillings per share on \_\_\_\_\_ five per cent. Cumulative Preference Shares in your Company, which I desire you to allot to me, or any less number, upon the terms and conditions of the Prospectus under date of \_\_\_\_\_, and I hereby agree to accept such allotment of shares subject to the Memorandum and Articles of Association of the Company.

Name, in full \_\_\_\_\_

Address, in full \_\_\_\_\_

Profession or Occupation \_\_\_\_\_

Usual Signature \_\_\_\_\_

## THE A. B. COMPANY, LIMITED.

A.F.

No.

Receipt for Application Money.

RECEIVED this \_\_\_\_\_ day of \_\_\_\_\_ 19.., on account of The A. B. Co., Ltd., the sum of \_\_\_\_\_ pounds \_\_\_\_\_ shillings, being a deposit of 5s. per share on 200 Cumulative Preference Shares of one pound each.

Stamp

NOTE.—This receipt must be retained by the applicant, and will, subsequently, with the letter of allotment, be exchanged for share certificate.



Form II.

## THE A. B. COMPANY, LIMITED.

Impressed  
Stamp,  
(see page  
52).

Issue of 100,000 Ordinary Shares

• of £1 each,

Allotment Letter..

AL

No.

For office use

SIR,

In compliance with your application I am directed to inform you that the Directors have allotted you ----- Ordinary shares of one pound each in this Company, on the terms contained in the Prospectus dated the -----

I am further instructed to request you to pay on or before the -----, to the company's bankers, Messrs. Argent & Co., of Money Street, E.C., the sum of £-----, which is made up as follows:

Amount due on Allotment, including

deposit with application .. ..

£ : :

Less amount paid on deposit .. ..

£ : :

Balance due .. ..

£ : - -

FG

## THE A. B. COMPANY, LIMITED.

AL

Receipt for Allotment Money on Ordinary  
Shares, making 5s. per Share Paid, up.

No.

For office use

RECEIVED of ----- the sum of -----  
pounds ----- shillings being the amount due on allotment of  
----- ordinary shares of one pound each in the above company.

For Messrs. Argent & Co.

1. stamp  
2. over  
£2.

Cashier.

N.B.—This receipt, together with the receipt for the amount deposited with the form of application is to be retained by the applicant to be exchanged for certificate.



WITH AMOUNTS RETURNED, FIRST AND FINAL CALLS

Folio of Share Ledger.	Amounts Returned		First Call.		Final Call.		Remarks.
	Cheque.	No. of Letter of Regret.	No. of Call.	Amount due.	Date of Payment.	No. of Call.	
	£ s. d.			£ s. d.			
2/408	— — —	—	593	100 0 0	May 9th	584	June 16th
3/98	200 0 0	118	594	25 0 0	May 10th	585	June 18th
1/281	— — —	—	—	— — —	—	—	—
—	25 0 0	119	—	— — —	—	—	—
1/48	— — —	—	596	25 0 0	May 18th	586	June 24th
1/195	— — —	—	597	— — —	—	587	July 18th
etc.	etc.	etc.	etc.	etc.	etc.	etc.	etc.

Shares sold on allotment, calls paid by H. Brown, transferee, Register folio 4/403

Allottee died April 30th. Calls paid by Executor to her estate. See Register of Documents, fo. 15

is apparent. The practice of ear-marking application forms in some way or another is bound to present itself in an issue of any considerable dimensions and where a heavy response may be anticipated. The Secretary should, therefore, see that all such forms are properly recorded in the lists for the Directors' guidance. It is probable, too, that forms of application have been sent to certain persons to whom it would be desirable to make an allotment. Such applications would bear some readily distinguished mark in order that they might not be overlooked; he should carefully peruse the whole of the forms and compare them with their respective entries in the lists before they are submitted to the Board.

The allotment will then be proceeded with, section by section. As one section has been dealt with and the number of shares to be allotted marked against the applicant's name in pencil, for the purpose of after correction, that section will be handed to a member of the clerical staff to be carefully added, checked by a colleague, and returned to the Board room with the total indicated. As soon as this process has been completed for the various sections representing the class of share being dealt with, the individual allotments will be modified, if necessary, after again going through the entire list to make the total allotment correspond with the number of shares to be issued, when the pencil figures will be inked in and to each allotment will be assigned its respective number in the column provided for that purpose. If the issue be a large one, it is probable that a separate meeting of the Board may be necessary to deal with each class of share.

An excellent method to keep track of the applicants' names is to employ the card-index system; indeed, the list of members required by the statutes to be kept is best treated in this form until the proper members' registers are written up. The cards will be filled in as the application forms are entered in the lists; it then becomes possible to ascertain easily and quickly the number of shares of each class applied for by any individual. The cards will be given to as many smart juniors as there are clerks engaged upon the entering of the forms, one junior to each clerk. As the forms are entered in the list, cards are made out to correspond with them, and when an application from the same individual for another class of share is entered this also appears on the same card in the following way:—

## Form 13.

H i

HIGHCROFT, JOHN G.,  
Meadow View,  
Axminster.  
Form of Application, Preference, No. 341.  
Do. Ordinary, No. 19.  
Do. Deferred Ord., No. 681.

It thus becomes possible to refer quickly to each applicant's form in any of the different classes issued. It may occur that one person may make more than one application for one particular class, and, in such a case, it would be necessary to quote the two numbers representing such forms opposite the class provided. There is no reason why these cards should not serve the purpose of the index for the Share Registers, as provision can easily be made for an additional column for the Register folios and another column for the total number of each class of shares held, when the cards would constitute the Company's list of members. This, too, is a very convenient form, and has been found in practice one of the most effective, inasmuch that, when a member sells out, his card is removed from the file and placed in another reserved for the purpose, the card always being available should the same person again become a member, when his old account in the Register would, if not full, be again utilised for entries. This method has other features to commend it, and it will be seen later, when dealing with dividend lists and annual returns, that its advantages are considerable.

The act of applying for a share or shares may be oral, and constitutes a valid application, and an allotment may be given effect to upon such an application and would be binding upon the applicant, if not withdrawn before the letter of allotment has been actually posted, as described hereafter. Further, shares may be applied for by letter, but if the latter does not state that the application is made in terms of the Prospectus offering the shares for subscription, or if it imports conditions at variance with the terms contained in the Prospectus or the Company's Memorandum and Articles of Association, it should not be accepted. The acceptance of the application must be absolutely unconditional. For this reason, the words shown on the application form, page 40, "or any less number of shares" are inserted

in view of the fact that the Directors may be unable to make the allotment of the full number desired by the applicant. In such a case, the applicant could repudiate the allotment, and free himself from liability to pay calls, because an allotment of any less number of shares than that specified in the form of application would not fulfil the conditions and would, consequently, be void. All forms of application should be so formulated as to provide for this contingency.

Any person making an application for shares may withdraw, and be entitled to the return of any moneys deposited with such application, at any time between the making of the application and the announcement that an allotment of shares has been made to him. Such an announcement of allotment is effective immediately on the posting, in a prepaid letter, of a notice intimating that the application has been accepted. A notice of withdrawal has no effect, and the allotment, therefore, becomes binding upon the shareholder upon the posting of a letter of allotment. A notice of withdrawal may be made by word of mouth, and would, moreover, be perfectly valid if made to a clerk at the Company's Registered Office.

Some Companies' Articles include a provision that persons under age may not be shareholders. If no such clause appear, the Directors will be well advised to accept no application in the name of a minor—infants having no power to contract. This being so, an allotment made to such a person may be wholly repudiated upon that person attaining his majority, when he would probably be entitled to the return of the money paid upon the shares in his name; in fact such a case has occurred.

A Company or Corporation may apply for shares if its regulations empower it to do so. Two or any number of persons may become the joint holders of shares, and the Company's Articles should, therefore, contain a stipulation that, in such a holding, the person's name first appearing in the form of application will be treated as the individual to whom all notices, dividends, etc., will be sent, and notice given to him at his registered address will be deemed to be notice to his joint-holders; but, if a transfer be registered, the deed must be signed by each member or by his attorney empowered to transact such business.

Applications from women invariably create more or less trouble, as they not infrequently omit entirely any statement as to whether

they are married, single, or widows. An omission in the first of these three descriptions is important in view of the Married Women's Property Act, 1882. A married woman applicant should state that she is the wife of So-and-so, and further, the Directors might not unreasonably require her to have the form endorsed by the husband, guaranteeing the payment of future calls when due, or, as an alternative, they might request the husband to become a joint-holder before making an allotment. The form should, therefore, contain some instructions to women for filling in their correct description and should indicate the requirements just quoted as to married women.

The Companies Act of 1908, sec. 85 (1), requires all Companies offering shares for public subscription to state the minimum number of shares upon which the Board of Directors may proceed to allotment, and further requires that the amount actually paid up on those shares with the forms of application shall not be a less amount than five per cent. of the nominal amount of the shares so applied for and offered for cash. It would appear that shares agreed to be taken up by underwriters may be included in this minimum subscription: the conditions under which the underwriting of the shares was conducted are fully disclosed in the Prospectus and provided for in the Articles. If no amount is stated in the Prospectus or Articles as the number of shares upon which the allotment may be proceeded with, then the *whole* of the amount of shares offered for subscription must be applied for before an allotment can be made. In any case, application money of not less than five per cent. of the shares so offered must be received by the Company. It should be noted that the money represented by cheques is not *received* until such cheques have been cleared.

By the Act of 1908, sec. 85, sub-sec. (4), if an allotment is not made within the space of forty days after the first issue of the Prospectus, the whole of the money is to be returned to the applicants. If the money is not returned within forty-eight days, the Directors become personally and jointly liable for the return of the moneys with interest at five per cent. after the expiration of the forty-eight days, though a Director is not liable if he is in a position to prove that the loss of the money was in no way due to negligence or misconduct on his part. By sec. 86, sub-sec. (1) of the same Act, an allotment made in contravention of the foregoing regulations is

*Form of Letter of Regret*

**THE A. B. COMPANY, LIMITED.**

*L/R*

*No.*

*Registered Offices—*

19 NEEDLE STREET,

BUCKLESBURY, E.C.4

19..

SIR, OR MADAM,

I am directed to inform you that the Directors regret they are unable to allot any of the *fifty* Preferred Shares as applied for by you in your application of the -----, 19.. A cheque for £12 10s. 0d. is accordingly appended hereto, being the amount of your deposit accompanying your form of application. After signing the said cheque in the space provided at the back thereof, kindly present it for payment without delay to the Company's bankers, or through your own bank.

No acknowledgment of this cheque is necessary.

I am,

Yours faithfully,

C. D.,

Secretary.

*L/R*

*No.*

LONDON,

..... 19..



*To the Consolidated Funds Bank, Ltd.*

*PAY to E. F., ESQ., or order, the sum of TWELVE pounds TEN shillings.*

*For the A. B. Company, Ltd.,*

G. H., Director.

C. D., Secretary.

£12 : 10 : 0.

Endorsement on cheque { RECEIVED of the A. B. Company, Ltd., the sum specified on the face hereof, being the amount of my deposit against my application for Preferred Shares.

E. F.



**Form 15.**

No. of  
Certificate } 01601P.

**COMPANIES ACTS, 1908 TO 1917.**

RETURN OF ALLOTMENTS \* from the \_\_\_\_\_ of \_\_\_\_\_, 19..  
to the \_\_\_\_\_ of \_\_\_\_\_, 19.. of *Consolidated Loamshire*  
*Collieries Company,* Limited.  
Made pursuant to s. 88 (1) of the Companies (Consolidation)  
Act, 1908.

(To be filed with the Registrar within one month after the allotment  
is made.)

\* When several Allotments are made on different dates, the dates of  
only the first and last of such Allotments should be given. When  
there is one Allotment only, made on one particular date, that date  
only should be inserted, and the spaces for the second date struck  
out and the word "made" substituted for the word "from" after  
the word "Allotments."

\* Distinguish  
between Pre-  
ference, Ordin-  
ary, &c.

* Number of the Shares allotted	150,000 <i>Preference</i>
payable in cash.....	100,000 <i>Ordinary</i>
" " " "	50,000 <i>Deferred Ordry.</i>
Nominal amount of the Shares	£150,000 <i>Preference</i>
so allotted.....	£100,000 <i>Ordinary</i>
" " " "	£50,000 <i>Deferred Ordry.</i>
Amount paid or due and pay- able on each such Share....	20/- <i>Preference</i>
" " " "	20/- <i>Ordinary</i>
" " " "	20/- <i>Deferred Ordry</i>
Number of Shares allotted for a consideration other than cash	75,000
Nominal amount of the Shares so allotted.....	£75,000
Amount to be treated as paid on each such Share.....	£1

The consideration for which such Shares have been  
allotted is as follows:—

*Part consideration of purchase price of property acquired  
by the Company in pursuance of agreements entered into  
with the vendor under dates of ....., and .....*

Presented for filing by

*Edward Edwardes,*

19 Milk St., Walbrook, E.C.

[P.T.O.]

## NAMES, ADDRESSES, AND

Surname.	Christian Name.	Address.
<i> Davids </i>	<i> David </i>	<i> 91 Oxford Street, W. </i>
<i> Jones </i>	<i> Agatha </i>	<i> 9 Pont St., Bayswater, W. </i>
<i> Headingly Viscount </i>	<i> Robert Byrnes </i>	<i> Powerton House, King's Lynn, Norfolk </i>
<i> Solomon </i>	<i> Rufus </i>	<i> 1 Chapel Court, Throgmorton St E.C. </i>
<i> Williams </i>	<i> William </i>	<i> 250 Jewin Street, E.C. </i>
<i> etc. </i>	<i> etc. </i>	

**Form 15 (continued).**

**DESCRIPTIONS OF THE ALLOTTEES .**

Description.	Number of Shares allotted.		
	Preference.	Ordinary.	Deferred Ord.
<i>Linendraper</i>	100	10	
<i>Spinster</i>	200		
<i>Peer of the Realm</i>			10,000
<i>Stock-jobber</i>	300	500	
<i>Silk Merchant</i>	150		
etc.	etc.	etc.	etc.
	150,000	100,000	50,000

Signature. *Edward Edwards, —*  
Secretary

not void, but voidable, the right of avoiding the allotment resting with the applicant, and that within one month after the statutory meeting (*q.v.*), even though the Company may be in liquidation.

Since July 1st, 1908, no allotment of shares can be made by a Company not issuing a Prospectus, unless the requirements of the Companies (Consolidation) Act, 1908, sec. 32, sub-sec. (1) are complied with. It is there enacted that, in the absence of a Prospectus, a Statement in Lieu of Prospectus (embodied in the second schedule to that Act) must be filled in and signed by every person who is named as a Director or a proposed Director or his duly authorised agent.

These restrictions as to allotment refer only to companies which make a public offer, private companies being exempted.

The form of allotment letter given on page 41 is the one usually adopted, and is most conveniently bound up in books of 250 or 500 each, with counterfoils, and numbered consecutively, the numbers being entered in the column appearing for that purpose in the list of applications and allotments. All letters of allotment must bear an impressed stamp of the value of one penny where the total nominal value of the shares contained in the letter amounts to less than five pounds. If the nominal value of the shares amounts to five pounds or upwards, the stamp duty is sixpence (impressed). A penalty of twenty pounds is incurred by any person who permits the issue of such a document without the requisite stamp duty. In this instance, the onus lies practically solely at the Secretary's door, as usually his is the only signature appearing upon the document.

An allotment when made and duly communicated to the allottee, in the manner previously described, is irrevocable and binding on both the Company and the member to whom the allotment is made.

To those applicants to whom no allotment is made, a form of intimation must be sent, this being known as a letter of regret, a form suitable for the purpose being given on page 48. In a successful promotion or flotation, this part of the business of raising the Company's share capital is sometimes the means of creating the greater part of the clerical labour involved. Of necessity, the return of the unappropriated application money must not be delayed for a day longer than is absolutely essential. It will be as well, in fact, if the process of dealing with the matter can proceed

simultaneously with the work of allotment. So soon as the actual allotment is complete, the two branches of the work should be commenced without delay. The plan of keeping the application and allotment sheets loose will aid the adoption of this plan for dealing with the matter.

Except with regard to the question of the return of subscribers' amounts paid on deposit in cases where Companies have neglected to make an allotment within a specified time, before cited, the statutes are silent upon the subject of returning rejected deposits. It is possible the legislature has never contemplated the possibility of any given opportunity to subscribe proving a great draw in the eyes of the investing and speculating public. Be this as it may, the urgency of the matter must on no account be ignored, as it is not wise to overlook a disappointed applicant's chagrin, if, in addition to failing to secure the possibly much-coveted shares, perhaps already being quoted at a premium, he has to wait unduly long for the return of the money thus unprofitably laid out. To this end, the card indexes previously advocated can be utilised to make one letter of regret serve the purpose of returning to an individual applicant a sum paid on applications for more than one class of shares or paid in connection with more than one application for the same class, as the case may be. A column will be found in the Application and Allotments Book for the amounts repaid under this head, with another column preceding it, giving the numbers of the letters of regret, which should be bound up in books, as in the case of allotment letters. The bottom portion of the form announcing the return of the deposit will be drawn up in the form of a cheque, after the manner of a dividend warrant, or, if preferred, the back of the cheque may be printed for the recipient's indorsement in the familiar form of the receipt-cheques now so much adopted in business circles. The signing of this cheque (to which a receipt stamp, if over two pounds, must be affixed) in either of the spaces provided for the purpose, will, on presentation for payment at the Company's bankers, free the Company from its liability. Before passing on from the subject of application and allotment, it will be as well to discuss the possibility of shares, or debentures, being allotted in full to the vendor, or his nominees. To give effect to this, the form of allotment letter previously given will not, of course, serve. Unless such allotments are likely to be numerous,

it will be best to have a letter written in the ordinary way, which must bear the stamp duty to the same amount as for other allotment letters. The letter should state :—

- (1) That a resolution of the Board has been passed allotting the shares.
- (2) Whether the shares are fully-paid-up; if not, to what extent.
- (3) The distinctive number of the shares.
- (4) That the agreement affecting the issue of the shares herein has been duly filed at Somerset House, and the date of such filing.
- (5) That a share certificate will be prepared, and that the certificate will be duly exchanged for this letter. The certificate must be prepared within two months of the allotment (unless the conditions of issue provide otherwise). See Act, 1908, sec. 92 [1], which applies to *all* certificates.
- (6) That an acknowledgment is required from the allottee of this allotment, accepting the shares.

Such allotments must be supported by a contract setting out that they are made in consideration of some property or rights acquired by the Company, or for services rendered to the Company. The contract must also give full particulars of the consideration, and must be filed with the Registrar of Joint-Stock Companies on a date *prior* to the Directors' resolution making the allotment.

Within the space of one month from the making of any allotment of shares, it is required by sec. 88 of the Act of 1908 that a return of all allotments so made be filed with the Registrar of Joint-Stock Companies, which return must state : (a) The number and nominal amount of the shares allotted and distinguishing the various classes of shares ; (b) the amount paid or due and payable on each of the shares ; (c) any document constituting the right of such persons as may be named as allottees to such allotment as may be allotted as paid up, or partly paid up. The contract so filed must contain full particulars of the consideration in respect of each allotment, whether an agreement for sale and purchase, or for services rendered to the Company. Further, the contract must be duly stamped in accordance with the Stamp Act, 1891, sec. (12) ; (d) particulars of the number of each of the shares allotted for a consideration and the

## COMPANIES ACTS, 1908 TO 1917.

To *J. K. & L. Markway*, ..... Limited.

I *Julius Markway* of *Templewood Manor, Cross Hands, Bucks*, hereby request you to allot the 15,000 Ordinary Shares of £10 each and ..... Preference Shares of £ ..... each due to me or my nominees by virtue of an Agreement dated the ..... day of ..... 19.. to the persons and in the proportions stated hereunder namely:—

Name of Person.	Address.	Number of Shares.	
		Ordinary.	Preference.
<i>Sophia Markway</i> ( <i>Spinster</i> )	<i>Templewood Manor, Cross Hands, Bucks.</i>	5,000	
<i>Janet Julia Markway</i> ( <i>Spinster</i> )	<i>ditto</i>	5,000	
<i>Martha Marid Markway</i> ( <i>Spinster</i> )	<i>ditto</i>	5,000	

Dated this ..... day of ..... 19..

(Signature) *Julius Markway*.

extent to which they are paid up; and (e) the names, addresses, occupations or descriptions of the allottees.

In any failure to comply with these requirements, each Director, Manager, Secretary, or any officer of the Company, knowingly in default, becomes liable to a penalty of £50 a day so long as the default continues.

If shares are allotted in kind to nominees of the person giving the consideration under the contract to be filed, the contract must authorise the allotment to nominees. No Company may allot shares as a gift or bonus to its shareholders or other persons, except, for example, by way of bonus shares out of reserves or undistributed profits. In all cases, valuable consideration must be shown, and that consideration must be unquestioned in regard to its value. It is permissible to include in the return all allotments made within a month from the date on which the first allotment comprised in the return was made.

Any person being entitled to an allotment of shares under a contract may nominate others as allottees of those shares; in such instances the request to make such an allotment should be made on a form similar in every respect to the example given on page 55. The form should be completed and handed to the secretary when the contract covering the allotment is signed.

By the Trading with the Enemy Amendment Act, 1915, no allotment of any share, stock, debenture, or other security issued by a Company after the passing of this Act, to or for the benefit of an enemy subject, shall, unless made with the consent of the Board of Trade, confer on the allottee any rights or remedies in respect thereof. (See Appendix F.)



## CHAPTER VII

### CALLS ON SHARES

ON dates usually specified in the Prospectus, instalments become due on the shares allotted, such instalments being known as "calls." These calls will, to a greater or less extent, be regulated by the Company's Articles of Association with regard to the manner in which they may be made by the Directors; though, as has been stated, it is customary in a public issue to announce in the Prospectus full particulars as to when and how the capital offered for subscription is to be satisfied in regard to amounts and dates of different calls, whether of shares or debentures. The Articles will, nevertheless, contain provisions regulating these matters. Clauses will be inserted empowering the Directors to make calls upon the shareholders from time to time, probably specifying that no call shall exceed in value one-fourth of the nominal amount of each share, or such other proportion as may appear necessary when the Articles are framed, and the time which must elapse between the making of the several calls. The old Table A provided twenty-one days' notice in which a call should become payable; the revised Table A has reduced this notice to fourteen days. A clause should also appear dealing with the imposition of a charge of interest, at so much per cent. from such date, on the member neglecting to pay his call upon the date named for such payment. It is not unusual to make this rate of interest a high one, thus penalising the defaulting member. Though the revised Table places the figure at five per cent., which amount is generally adopted, the Directors may be given power to set aside this imposition. The question of forfeiture through non-payment of calls or other sums due upon shares allotted will be dealt with separately.

The call notice, of which we give the usual form employed on page 58, will be drawn up and signed by the Secretary ready to be despatched to the shareholders at such a time as may be required to cover the notice provided. It is, therefore, imperative that the Secretary should see that these matters are well in hand and prepared in advance of the prescribed date. The call notice should contain,

Form 17.

*Specimen Call Notice*

**THE A. B. COMPANY, LIMITED.** C<sup>1</sup>

No.

First Call of 5s. per Share in 75,000 Ordinary Shares of £1 each  
(making 15s. per share paid up).

*Registered Offices—*

19 NEEDLE STREET,  
BUCKLESBURY, E.C.,  
..... 19.

SIR (OR MADAM),

I have to give you notice that the First Call of 5s. per share has been made by resolution of the Board, and in pursuance of the terms of the Prospectus dated -----, 19.. I am directed to request you to pay the sum of £500 on the 2,000 Ordinary Shares held by you on or before the .... inst. to the Company's Bankers, Messrs. Argent & Co., of Money Street, E.C.

When sending your cheque, please forward this notice together with the form of receipt attached hereto.

I am, Your obedient servant,

C. D.,  
Secretary.

To E. F., Esq.,  
400 Grosvenor Square, W.

**THE A. B. COMPANY, LIMITED.** C<sup>1</sup>

No.

Bankers' Receipt for Payment of First Call of 5s. per Share  
(Ordinary), due ....., 19..

*RECEIVED* of E. F., Esq., the sum of FIVE HUNDRED pounds  
shillings, being the amount due on 2,000 Ordinary  
Shares in the above Company.

For Argent & Co.,

G. Stamp H.,  
1d.  
Cashier.

£500 : 0 : 0

NOTE.—This receipt must be preserved to be exchanged for certificate.

## CALL BOOK (ORDINARY SHARES)

Name of Shareholder	Address.	Folio in Register	First Call of 4s. per Share.			Second Call of 4s. per Share.			Final Call of 4s. per Share.			Remarks.
			No. of Call Notice.	Amount.	Date when paid to Bank.	No. of Call Notice.	Amount.	Date when Paid to Bank.	No. of Call Notice.	Amount.	Date when Paid to Bank.	
			£ s. d.	£ s. d.		£ s. d.	£ s. d.		£ s. d.			
Danks, Wm. H.	19 Fleet St., E.C.	1/501	595	10 0 0	May 18, '09	535	10 0 0	June 21, '09	579	10 0 0	July 30, '09	Paid three calls on 15/5/09
Jeffrey, Geo. H.	Leytonstone	1/501	596	15 0 0	May 15, '09	—	—	—	—	—	—	
Hollings, John	36 Fitzroy Sq., W.	1/502	597	2 0 0	May 18, '09	586	2 0 0	June 26, '09	578	0 0 0	July 15, '09	
Coggan, Miss Mary	44 Hogarth Rd., W.	1/502	598	5 0 0	May 16, '09	587	5 0 0	June 15, '09	579	5 0 0	July 20, '09	First and Second Call paid 26/5/09
Hailstone, Edw. C.	Eltham, Kent	1/503	599	20 0 0	May 26, '09	—	—	—	580	10 0 0	July 21, '09	

particulars of the manner in which the call is made, *i.e.*, whether in terms of the Prospectus or pursuant to a resolution of the Board, giving the date of such resolution. The amount of the call becoming due and also the total amount which would be paid up, upon such call being paid, on the shares, must also be given, as shown upon the specimen. The notice would be described as "First Call," "Second Call," or "Final Call," as the case may be. It need not give the distinctive number of the shares.

Unless there be a number of calls in connection with the issue, a separate call list is unnecessary, and it may be incorporated with, and form part of, the Application and Allotment List. This will generally suffice where not more than two calls are made to complete the amount payable on the shares, but, where it is found that more than two calls will be made, it will be better to prepare a separate call list, of which we present a specimen on page 59. It is essential that provision be made in such lists for the number of the call notice, the amount in full of the call due from the shareholder, another column in which the date of payment may be recorded, and a column for the posting folio of the share ledger. Proper space must also be provided in the margin for remarks.

If allottees sell their shares, as they may do, the calls will then be paid by the person acquiring the shares, and in such cases this must be duly noted in the remarks column; shareholders also not uncommonly prefer to pay two or three calls at one time. The Articles will most probably make a provision for the payment by the Company of interest at a stated rate to those members paying up the residue of their liability before the calls are made, but no such interest will be paid on amounts received once a call has been made. We may here mention that such interest on prepaid calls may be paid even if no profits have been earned by the Company, the shareholders' money being regarded in such a case in the nature of a loan and not as a contribution to his interest in the concern as a member, though it is ultimately intended for that purpose. A good use may, therefore, be made of an adequate column providing for the record of such important matters arising at this juncture.

The unnecessary labour generally involved if the call notices are bound up in books with counterfoils, may safely be dispensed with. The method of having the notice as well as the form of receipt at the foot machine-numbered will be found to meet all requirements.

A certain number of the notices should be left without numbers being printed on them, as they may be substituted for such forms as may be spoilt, the numerical sequence being thus preserved.

The plan of having different coloured papers for application forms for each of the classes of shares should be followed throughout in the case of allotment letters and also with each of the series of calls. Thus all forms connected with the preferred shares would be printed on white paper: the ordinary share forms would be blue, and so on. A further useful means of identifying quickly the nature of the form is to use a code of initial letters just above the serial number or the space provided for the number, as the case may be, in this way: In the extreme top right-hand corner of the form would appear the letters, or figures, in, say, quarter-inch block letters, A.F., A.L., C<sup>1</sup>, C<sup>2</sup>, each representing respectively, Application Form, Allotment Letter, First Call, and Second Call. These marks of identity would, of course, be duplicated upon the receipt forms attached by the perforation at the foot of each of the forms; and would, when the forms are assembled for the purpose of exchanging them for the share certificate, prove exceedingly useful.

## CHAPTER VIII

### COMMENCEMENT OF BUSINESS

IN our remarks on the subject of allotment, we took occasion to refer to the fact that, under the Acts of 1900 and 1907, certain observances are required from Companies before they are allowed to embark upon their business operations. This shows a very laudable desire upon the part of the legislature to put a check upon the practice of Company promoters, who have failed to obtain an adequate amount of capital in response to their Prospectuses, starting their enterprises with totally insufficient capital to carry out their schemes. This evil is not wholly abolished, as the statutes above cited did not go any further than to stipulate for an announcement in the invitation to subscribe for shares, with a like provision in the Articles, as to the lowest amount of shares which must be subscribed before any allotment may be made. The statutes do not make any provision that a certain or any defined proportion of the share capital offered for subscription shall be applied for, nor does it seem feasible that legislators could have inserted such a precise stipulation, having regard to the great variety of factors which must of necessity govern the vast number of Companies promoted, and the innumerable conditions which must affect each. The investing public are, however, supplied with protection to the extent that they are now in a position to know the actual amount upon which the Directors propose to start operations, and it must be for the intending subscribers to consider whether the minimum amount stated is adequate under the circumstances. A Company making no invitation to the public to subscribe for its shares, but whose share capital is being provided by a circle of friends or business acquaintances, is still exempt from these provisions, and may commence its business operations so soon as the certificate of incorporation has been obtained. A Company of more than fifty members (as defined by section 121 of the 1908 Act, and section 1 of the 1913 Act), cannot be deemed a private company and will, therefore, have to comply with the provisions as to commencement of business.

Between the dates of incorporation and commencement of business, a Company may enter into contracts, but such contracts do not bind the Company or the other party until the Company has obtained its certificate to the effect that the requirements of sec. 87 of the Companies Act, 1908, have been complied with. To obtain this certificate, it must be shown that (a) "the minimum subscription for shares payable in cash has been allotted"; (b) "every director has paid up on the shares taken by him an amount proportionate to that payable on those offered for public subscription"; and (c) "a statutory declaration by the Secretary or a Director that the aforesaid conditions have been complied with, has been filed with the Registrar." Upon the filing of this declaration, the Registrar will grant the requisite certificate, and such certificate is stated by the section above quoted to be evidence that all requirements under this head have been complied with. There is a penalty of £50 per diem imposed upon every responsible person who fails to comply with the section.

The Directors may not exercise any power of borrowing which may be conferred on them by the Articles until they are entitled to commence business. They are at liberty, however, to make an offer to issue debentures, but such debentures would, if issued, be only provisional, as in the case of other contracts. It would be necessary to state that the offer is made conditional upon the Registrar's certificate for the commencing of business being given.

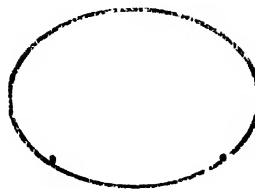
From the date of the granting of the Registrar's certificate to commence business, the date of the Statutory Meeting or the first meeting of the shareholders is determined. This meeting is required by sec. 65 of the Act of 1908 to be held not less than one month and not more than three months after the date of the certificate. In the case of Private Companies, the date would be computed from the date of the Company's incorporation. The details connected with the Statutory Meeting will be dealt with in another chapter.

Companies which have filed with the Registrar a statement in lieu of prospectus will be required to make a declaration through their Secretary, or a Director, that the provisions of section 87 have been met. Although the form varies slightly from that given on pages 64 and 65, both these forms are to the same purpose and vary only to the extent of meeting the case as regards prospectus. There is a fee of 5s. due on filing.

Form 19

No. of  
Certificate } 016011

COMPANIES ACTS, 1908 TO 1917



A 5/2  
Companies'  
Registration  
Fee Stamp  
must be  
impressed  
here.

DECLARATION made on behalf of the *Consolidated*  
*Loamshire Collieries Company,* Limited,  
that the conditions of s. 87 of the Companies  
(Consolidation) Act, 1908 (8 Edw. 7 ch. 69), have been  
complied with.

Presented for filing by

*James Dobson,*

*41 Pump Court,*

*Temple,*

*Solicitor.*



Form 19 (continued).

I *Edward Edwardes*  
of *19 Milk St., Walbrook, E.C.*

To insert  
here "the  
Secretary," or  
"a Director."

being (\*) *the Secretary* of the  
*Consolidated Loanshire Collieries Company,* Limited  
do solemnly and sincerely declare:—

THAT the amount of the share capital of the Company  
offered to the public for subscription is £225,000.

THAT the amount fixed by the Memorandum or  
Articles of Association and named in the Prospectus as  
the minimum subscription upon which the Company  
may proceed to allotment is £100,000.

THAT shares held subject to the payment of the whole  
amount thereof in cash have been allotted to the amount  
of £225,000.

THAT every director of the Company has paid to the  
Company on each of the shares taken or contracted to  
be taken by him and for which he is liable to pay in cash,  
a proportion equal to the proportion payable on applica-  
tion and allotment on the shares offered for public  
subscription.

And I, make this solemn declaration conscientiously  
believing the same to be true, and by virtue of the  
provisions of the Statutory Declarations Act, 1835.

Declared at *48 Fountain Court,*  
*Temple, E.C.*

the            day of . . . . .

one thousand nine hundred and            (s<sup>d</sup>.) *Edward Edwardes.*

... before me

*Hyam Low,*

A Commissioner for Oaths.

## CHAPTER • IX

### THE COMMON SEAL

THE official seal of a Company may be described as the sign manual used for all the more important acts or deeds performed by the controlling officials, acting for the time being on the Company's behalf. By sec. 63 (1) (b) of the Companies Act, 1908, every Company is required to have its name legibly engraved upon its seal; a subsequent subsection imposes the heavy penalty of fifty pounds upon any Director, Manager, or other officer of the Company who allows the use of any seal purporting to be the seal of the Company upon which the Company's name is not so engraved.

The Articles of Association will contain provisions as to the manner and upon what occasions the seal is to be employed. Special Articles frequently require that the seal shall be used only in the presence of at least one Director and the Secretary. By the revised Table A, two Directors and the Secretary or such other officer as the Board may from time to time appoint are required to be present whenever the seal is used, and it is further directed that they are to sign the document upon which the seal has been impressed, and that such seal shall not be used except and only when so authorised by a resolution of the Directors passed at a Board meeting duly and regularly convened. The usual practice in Companies of moderate size is to keep what is known as a Seal Book; though this is not required by the statutes. Its advantages, however, should not be overlooked as, upon inspection of the specimen of such a form of ruling as has been found the most suitable in practice, it will be found of the greatest utility where a number of documents are regularly brought up for sealing at nearly every Board meeting. The place of custody of the seal will be decided by the Directors at their first official Board meeting. It will be resolved generally that the seal is to remain at the registered offices of the Company for the time being, and that the key of one lock be in the custody of the Secretary, and that each of the Directors will keep a key of the other lock. The Secretary should always be careful to see that on all occasions the Directors who sign a sealed document place their initials in the

## SEAL BOOK

No. of Minute authorising the Use of Seal.	Date of Sealing.	No of documents Sealed.	Particulars of Documents.	Initials of Director and Secretary.	Remarks.
	April 1, '14	1 2	Agreement with J. K. and L. M. for sale and purchase of property acquired by the company and counterpart thereof.	E. F. C. D.	Original filed with Registrar of Joint-Stock Companies with prospectus by N. O. Solicitor, April 1st, 19.. Counterpart in deed box.
	Apl. 8, '14		Lease of Premises in Silver St., Golden Lane, E.C., and copy.	G. H. C. D.	Original sent to R. S. & Co., counterpart in deed box.
	May 18 '14	500	Certificates for Preferred Shares Nos. 1 to 505 inclusive. (Nos. 119, 193, 304, 361, and 485 spoilt and cancelled.)	F. F. C. D.	
	May 18, '14	500	Certificates for Ordinary Shares, Nos. 1 to 500 incl.	G. H. C. D.	
	etc.	etc.	etc.	etc.	etc.

column provided in the Seal Book, and that the entry corresponds with the number of the minute which forms the resolution affecting the document thus signed and sealed. A specimen page of a Seal Book is here given as in use, and will fully illustrate these points. It is very important that the entries coincide exactly with the entries in the Minute Book showing the transactions. /

When sealing at one time large numbers of documents, such as share certificates, it will be found convenient to arrange a special meeting of the Directors or a committee of them to carry out this function; care should, however, be observed that the requisite number of Directors be present as is prescribed by the Articles, and that a minute is passed by the Board authorising such a proceeding. The minute should also stipulate that these proceedings be fully reported to the Board at their meeting next ensuing, when they must be duly confirmed. (See chapter on Committee of Directors.)

It may here be interesting to note that a simple rubber stamp has been known to serve the purpose of a Company's seal; but we strongly doubt the legality of such a form of seal in view of the wording of the Act. (See section 63 (b).) In a court of law, an instrument bearing such imprint of a rubber stamp as the seal of a Company would run great risk of being regarded as void.

## CHAPTER X

### REGISTER OF MEMBERS AND SHARE LEDGER

THIS book, one of the most important coming under the Secretary's charge, is required to be kept by all Companies, the requirements being set out in sec. 25 of The Companies Act, 1908, wherein it is provided that every Company must keep a book or books giving full particulars of (a) the names, addresses, descriptions or occupations of the members of the Company, with a statement of the shares held by each member, each share to be distinguished by its distinctive number, unless converted into stock, and the amount paid or agreed to be considered as paid upon each of the said shares; (b) the date upon which the member was entered upon the register; and (c) the date upon which the membership ceased.

The date when a person commences or ends his membership is to be taken as the date when such an entry giving effect to any such occurrence is actually made. It is very important, however, that an entry of an allotment or deed of transfer be made with the least possible delay, as undue neglect may lead to serious consequences. With regard to the signatories to the Memorandum of Association, membership in their case actually commences with the Company's incorporation irrespective of their being entered upon the Members' Register; in all other cases, membership does not exist until a person's name is entered upon the Register. It is a common practice, though quite incorrect, in recording allotments of shares in the Register, and more especially in regard to transfers, to give the date in the Register which appears in either of those documents.

The legislature apparently expect the Company to keep its Register of Members from the date of the Company's registration. Where a Company's roll of membership is confined to the narrow limits of the actual signatories, this course would be, no doubt, practicable. A large proportion of the Companies whose names appear on the official lists of the London Stock Exchange have, however, hundreds of shareholders: many, indeed, boast of Share Registers running into a dozen or more volumes, each containing



perhaps a thousand names. To have such a pretentious list prepared on the day of the Company's official birth would, in such a case, be an utter impossibility. The statutes require all Companies to have their Register of Members open for a period of not less than two hours on each day to the inspection of their members gratis, and to the general public upon payment of a sum not exceeding one shilling. In the absence of the Members' Register, a member of the Company or any other person, upon the payment of the above-named sum, would be entitled to inspect the list of allotments made, if the Share Register had not been entered up. It must be observed that the law does not in any way specify in what manner of book or books a Company is required to give the particulars defined in regard to its list of members and their holdings. It merely provides for the keeping of such a record giving that information.

Furthermore, any person is entitled to a copy of the whole, or part of, the Members' Register, giving the names, addresses, and descriptions of each member, with the number of shares held by each, and distinguishing the class of shares standing against their names, upon payment of a sum not exceeding sixpence for every hundred words, or part of a hundred words (each figure in the list will be counted as a word). A number of circular-addressing agencies will require these, and the Secretary should see that a deposit is paid, a deposit approximately equivalent to the total amount required. Directors must on no consideration whatever (even if their refusal be prompted by the desire to withhold information which they know to be prejudicial, if divulged, to the Company's interests) neglect to give any person access to the Register or to supply a copy of it on the terms above stated. Such a refusal will involve the penalty of a sum not exceeding two pounds, and a further penalty not exceeding two pounds for every day while the refusal continues, the Company being liable.

If the Company is to have a Stock Exchange quotation, or if it be about the average size, it will be advisable to have a separate register for Preference, Ordinary or Deferred Shares, as the case may require. In the case of small Companies where the shares are not liable to frequent transfer, a book may be obtained comprising Application and Allotment Lists, Share Ledger and Members' Register, Transfer Register, with a number of pages for the Annual

MEMBERS' REGISTER FORMING INDEX TO SHARE LEDGERS, ARRANGED UNDER VOWEL INDICES; SPECIMEN OF "Ha" SECTION

[illegible]



Returns of Members and Directors. Such books are frequently stocked in two or three sizes, and will be found to consist of such forms as will readily meet the requirements of Companies of modest proportions formed for private purposes, or where the membership is confined to narrow limits. In small concerns, this method is the best to adopt, the whole of the transactions concerning the shares and shareholders being contained in the space of one compact volume of convenient dimensions. Acting upon the axiom that the greater includes the less, we are devoting our attention in the main to those Companies whose aspirations include a position on the official market quotations, and which are consequently of the average size. To such concerns, the forms of Members' Register occupying pages 70 and 72, will be found the most suitable, and can be varied easily to suit the circumstances of almost any conceivable variation from the customary notation. It is recommended to allow the paging of the registers running into more than one volume for each class of shares, to be continuous, and that the colour of the binding be distinctive. A separate index for the whole series of registers should be kept, in preference to an index for each volume, as a reference to this general index will furnish the required information as to the locality of the shareholder's account as regards his holding in any class of share. This index will be most convenient in the form of cards, on which information will be given as to register, number, and folio for each of the different classes of shares. A further column may, with advantage, be divided into as many divisions as there are classes of shares, into which may be entered in pencil the number of shares of each kind held by the member. The advantage of this system cannot be over-estimated, as, when a shareholder disposes of the whole of his shares, the index card bearing his name is removed to a separate filing cabinet. Those remaining will represent actual shareholders and not a large number of cards which bear names needing no consideration when making up the annual return or a dividend list.

For the purpose of adjusting the Share Register periodically, sec. 31 of the Act of 1908 provides for the closing of the Registers for a period not exceeding thirty days, by means of public advertisement in some newspaper well known in the district in which the Company's registered office is situate. The Articles of Association of the majority of Companies provide for this, and the usual custom

is to close the Registers for fourteen or, in some cases, twenty-one days at the end of the financial year, and, possibly, seven days for the purpose of compiling an interim dividend list. An announcement of the closing of the Registers should take the form of an advertisement to that effect in a prominent London financial paper if the Company's shares are quoted on the London Stock Exchange. During the time of closing, no transfers will be registered, though most Companies receive them and hold them over till after the date specified in the advertisement.

Immediately after Allotment, the entries into the Registers should be commenced, as these must be completed in order to be ready for the entry of all cash receipts in connection with the different instalments paid by the members. If the allotment lists have been prepared in sections or on the loose-leaf principle, this will be done easily, as a group of clerks may then be employed on the registers directly the allotment letters have been despatched. Another group may be dealing with the certificates. As it is quite possible that transfer deeds may be coming in soon after the allotment letters have been forwarded, the Company Secretary has an opportunity of displaying any genius he may be possessed of in the way of organisation. It will be well, in any case, to have all details thoroughly well thought out and definitely planned some days before the issue of the Prospectus. When the applications come rolling in at the Bank, it will be too late to plan successfully the method of handling the thousand and one details attendant upon this arduous task in the promotion.

Companies carrying on a colonial branch of their business are provided for in the Companies Act, 1908, secs. 34, 35, 36, which also enable them, where the Company's Articles so provide, to keep a branch register or registers of all members resident in that part of the Imperial Dominions. Copies of all entries therein are to be sent from time to time to the Company's registered office in the United Kingdom.

## CHAPTER XI

### SHARE CERTIFICATES

As soon as may be after allotment, arrangements must be in progress to prepare Share Certificates. Under the Articles, every person who is entered upon the Register of Members as a holder of shares becomes entitled to a certificate, usually signed by two Directors and countersigned by the Secretary, and bearing the seal of the Company. The certificate must state the number of the shares of the particular class it represents and also the distinctive numbers of the shares held by the person named therein as a member of the Company. It must also state to what extent the said shares are paid up. In the majority of cases, Share Certificates are printed describing the shares as fully paid up. The provisions of the Companies Act, 1907, which came into operation on July 1st, 1908, effectually restrict the time allowed for this. (See Consolidation Act, sec. 92) : "Every company shall within two months after the allotment of any of its shares, debentures or debenture stock, and within two months after the registration of the transfer of any such shares, debentures, or debenture stock, complete and have ready for delivery the certificates of all shares, the debentures, and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures, or debenture stock otherwise provide."

From the concluding portion of this section, it will be seen that it is open to promoters to stipulate in their Prospectus that the certificates will not be ready at the time specified by the section here quoted. The time allowed, viz., two months, is liberal, if viewed only from the standpoint of the Company's registrar's or transfer department. But, on the other hand, it is necessary to consider the drawbacks to the system of issuing certificates at a stage when possibly only the application, allotment and first or second call has been paid up, and providing spaces on the back of the document for the recording of subsequent calls. This is a practice involving a great amount of clerical labour, insomuch that whenever the further calls are paid it becomes necessary to have the certificate returned to the Company's Registered Office to enable the

Form 23.

COUNTERFOIL.

No. 561

Dated Aug. 22, 19..

Name ANTHONY A. AUBERON,

1 AXBRIDGE AVENUE,  
ARLINGTON.

Shares 500

Nos. 45401 to 45900

Certificate sent to

Per

Post.

24th Aug., 19..

Register folio 312.

*Specimen*

ORDINARY SHARE CERTIFICATE

No. 561

No. of  
Shares 500

THE A. B. COMPANY,  
LIMITED.

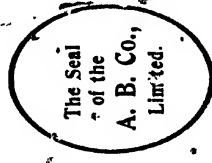
*Incorporated under the Companies (Consolidation) Act, 1908.*

Capital £300,000

Divided into 150,000 5 % Cumulative Preference Shares of  
£1 each, 100,000 Ordinary Shares of £1 each, and 50,000  
Deferred Ordinary Shares of £1 each.

THIS IS TO CERTIFY that ANTHONY AUGUSTUS AUBERON  
of 1 AXBRIDGE AVENUE, ARLINGTON, is the registered holder  
of FIVE HUNDRED fully paid Ordinary Shares of one pound  
each, numbered 45401 to 45900 inclusive, subject to the rules  
and regulations of the company.

GIVEN under the Common Seal of the Company  
this twenty-second day of August,  
19..



MOSES RUBENSTEIN, } Directors.  
ISAAC MAURICE, }

SOLOMON SAMUELS, Secretary.

No transfer for any of the within named shares will be accepted  
without the surrender of this certificate.

RECEIPT.

RECEIVED the fourteenth day of September, 1909, No. 561  
share certificate, as numbered herein for 500 ordinary shares.  
A. A. AUBERON.  
This receipt to be detached, filled in, and forwarded to the Secretary.

**Form 33 (continued)**

Certification No.	Transfer Deed No.	Name of Transferee.	No. of Shares trans- ferred.	Distinctive Nos. From. To.	New Cer- tificate No.	Date of Board Meeting.	Passed by.
941	1462	J. Reubens..	100	45401 45500	1310	Oct. 31, ..	M.R.
2	3	S. Levi ..	50	45501 45550	1311	do.	
3	4	G. Morris )	150	45551 45700	1312	do	
	Balance	S. Abrahams }	200	45701 45900	1313	do.	

No. 197

Date Oct. 31, 19..

Name J. H. OSBORNE,

199 COLBORNE VILLAS,  
ADSHEAD.

Amount of Stock £500

Certificate sent to

Per

Post. Nov. 2/..

Register folio 59.

No. 197

## THE A. B. COMPANY, LIMITED.

£500

Incorporated under the Companies (Consolidation) Act, 1908.

5% Cumulative Preference Stock.

THIS IS TO CERTIFY that JAMES HENRY OSBORNE of 199 COLBORNE VILLAS, ADSHEAD, GRIMSHIRE, is the registered holder of FIVE HUNDRED pounds Cumulative Preference Stock in this Company, subject to the Memorandum and Articles of Association and the Regulations of the said Company.

GIVEN under the Common Seal of the Company,

his 31st day of October, 19..

The Seal  
of the  
A. B. Co.,  
Limited.

M. W., Director.

C. D., Secretary.

N.B.—This Certificate must be surrendered to the Company before any transfer of the stock can be registered. The stock can only be transferred in multiples of £5.

I acknowledge to have received stock certificate as No. 197 numbered in the margin hereof for £500.  
J. H. OSBORNE.  
Nov. 5th, 19..

NOTE.—This receipt must be detached from the Certificate filled in and signed, and returned to the Secretary.

**Form 24 (continued).**

Certification No.	Date of Transfer Deed.	No. of Transfer Deed.	Name of Transferee.	Amount of Stock Trans- ferred.	New Certifi- cate No.	Passed by.
796	Dec. 19, ..	1689	John Robertson	£ 100	1604	K. L.
7	Do.	1690	Abel Hauron	100.	1605	K. L.
			Balance	300	1606	K. L.
				<u>500</u>		

Secretary to record upon the back of it, in the space provided, the fact that such call has been satisfied and at the same time to state that so much per share is then paid up or that the shares are fully paid. Under these circumstances, it will be well to consider the desirability of making some announcement in the Prospectus to the effect that the certificates will be ready upon the payment of the final call and that the announcement is made by virtue of the provisions of the Companies (Consolidation) Act, 1908, sec. 92 (1). Again, we must not ignore the strictures of the London Stock Exchange Committee on this matter, having regard to their requirements that no official quotation will be granted for the Company's shares until the Share Certificates are ready for delivery. The question must, therefore, be decided by the circumstances attendant upon the particular promotion in hand.

Certificate forms are always printed in book form with a perforation dividing the form and the counterfoil. It will also be seen from an inspection of the specimen given on page 76 that another portion, divided by a further perforation, gives a form of receipt acknowledging the safe delivery of the certificate to its owner or his agent duly authorised to receive it. This form of receipt is sometimes placed between the certificate itself and the counterfoil. It has been found in practice, however, that, in such a position, it is apt to detach itself from the certificate when that document is removed from the book.

The colour of the certificates should be uniform, or as nearly as possible uniform, with the paper used in the case of the application, allotment and calls for each of the classes of shares. This precaution will be found to be a great boon and should be taken in every case where any printed matter is used in connection with the shares.

Where shares are jointly held by more than one holder, provision is usually made in the Articles that one certificate only shall be made out embodying the names of each of the holders of the share or shares contained in it; it should further be stipulated that the delivery of the certificate to one of the persons conjointly holding the shares shall be deemed to be delivery to all. The general practice in such cases is to treat the person whose name first appears as the representative of the holders whose names appear after.

Instances of shareholders losing their various receipts for their application, allotment, or for either of the subsequent call payments,



**Form 25.**

*Specimen Notice of Certificate being ready for exchange*  
**THE A. B. COMPANY, LIMITED.**

19 MILK STREET,  
WALBROOK, E.C.,

1st September, 19 .

SIR (OR MADAM),

I have to inform you that Share Certificates are now ready for both Ordinary and Preferred Shares. They will be exchanged for the Application, Allotment, and First and Second Call Receipts given to you by the Company's bankers for the different instalments paid by you. If you are unable to attend at this office personally to effect the exchange above mentioned, please fill in, sign, and forward to me, one of the two forms appended hereto.

I am,

Your obedient servant,

To George Brownlow, Esq.,  
1 High Street, Wapping, E.

C. D.,  
Secretary.

-----  
Address : 1 HIGH STREET,  
- WAPPING, E.,

To the Secretary of  
The A. B. Company, Ltd.,  
19 Milk Street, Walbrook, E.C.

Date : 3rd September, 19 .

SIR,

I enclose herewith *four* receipts representing the full amount of the instalments paid upon the Ordinary <sup>and</sup> ~~or~~ Preference Shares standing in my name, and I hereby request you to forward the share certificates in respect of same to this address, at my risk.

Yours faithfully,  
GEO. BROWNLOW.

-----  
Address : -----

To the Secretary of  
The A. B. Company, Ltd.,  
19 Milk Street, Walbrook, E.C.

Date : ----- 19

SIR,

Kindly hand my share certificate to -----  
of -----, who will hand you  
the bankers' receipts in exchange. Their receipt for the said  
certificate ----- shall be your full discharge.

Yours faithfully,

are unfortunately by no means uncommon. Certificates cannot be delivered up until all receipts for the different payments are surrendered to the Company. In cases where all or any of these documents are not forthcoming, the Directors are empowered by the Articles to enforce such a form of indemnity upon the member as may be prescribed by the Articles, or as the Directors may consider necessary. A form of a Letter of Indemnity is given on page 83. The Directors may, if they choose, also require this indemnification to be backed by a surety given by a person of substance and of known integrity. If this course be adopted, the guarantee given must be of a specific character, and is best embodied as an appendix to the Letter of Indemnity, which in itself would take the form of a statutory declaration on the part of the shareholder, and would require a stamp of two shillings and sixpence. The surety requires a further stamp of sixpence. A suitable form is produced on page 84. In this matter, the Secretary must be guided entirely by the circumstances of the case in point, having due regard to the tenor of the Company's Articles; nor must the views of the Board be disregarded, as the whole responsibility resulting from the action rests with them.

Upon the completion of the certificates, or on a date just preceding their completion, notices must be sent to the shareholders to the effect that they will be handed over to them or their duly authorised representatives upon surrender of the receipts for application, allotment and call moneys. We suggest the adoption of a notice with attached forms of authority, such as is given on page 81. When these authorities are duly filled in and signed by the shareholder and presented with the receipts above mentioned, the certificates can be handed over or posted as the case may be. Care must be taken with regard to the signing of the receipt-portion of the certificate. It is important that it be signed by the shareholder, or by the person or firm to whom he gives authority to act, and, further, these forms of authority for the disposal of the certificates, together with the certificate receipts, should be carefully filed and preserved in the order of their serial numbers. In practice, it has been found that the investing public have very bad memories and a great lack of method in regard to their business habits. A due amount of diligence may, therefore, be devoted most profitably to these matters. It is to be feared that they frequently receive but

**Form 26.**

### *Specimen of Letter of Indemnity*

*Impressed*

• **6d.**

**Stamp**

**. 19 .**

**To the Directors,**

The ..... Company Limited,

DEAR SIRS,

My Letter of Allotment No. , for, Cumulative Preference Shares numbered to inclusive in your Company, having been lost or mislaid, I hereby undertake, in consideration of your handing me the Certificate for the said shares to indemnify you and save you harmless against any loss or detriment which you may suffer by reason of your so doing, and I hereby declare that I have not knowingly parted with the allotment letter in question, and should the same hereafter come into my possession I undertake to deliver it up to you.

Yours faithfully,

**Signature** . . . . .

Witness to the signature  
of the above-named

**Name**.....

**Address . . . . .**

**Occupation . . . .**

**Form 27.**

*Specimen Statutory Declaration as to Lost Certificate and Surety*

I, \_\_\_\_\_, of \_\_\_\_\_,  
do hereby solemnly and sincerely declare  
*Impressed* that my certificate, No. \_\_\_\_\_, for \_\_\_\_\_ Cumulative  
*2s. 6d.* Preferred Shares, numbered \_\_\_\_\_ to \_\_\_\_\_ inclusive,  
*Stamp* in The \_\_\_\_\_ Company, Ltd., has been lost, mislaid,  
or accidentally destroyed, and that I have fully  
searched for but have been unable to find the same.  
And I hereby request the said Company to issue a new  
Certificate in my name. I further declare that I have  
not in any way knowingly parted with the said  
certificate numbered \_\_\_\_\_

I make this declaration conscientiously believing  
the same to be true, and by virtue of the provisions  
of the Statutory Declaration Act, 1835.

*Signature* .....  
of .....

Sworn before me at .

*A Commissioner of Oaths.*

**Surety.**

*Impressed* To the Directors of  
*6d.* The \_\_\_\_\_ Company, Limited  
*Stamp* In consideration of your issuing to  
a new certificate for \_\_\_\_\_ Cumulative Preferred Shares,  
we hereby undertake to save you harmless from any  
loss or detriment which you may suffer by reason of  
your so doing.

*Signature* .....

Witness to the signature  
of .....

*Name* .....

*Address* .....

*Occupation* .....

scant attention in the hurried turmoil of the work of instituting the Company's career.

• If possible, the Share Certificates for each of the different classes of shares should be prepared simultaneously, as it will be found in all probability that a great number of shareholders have applied for and hold shares of each class. It will, therefore, be a saving of both time and money to make one communication with regard to all, and this may be easily effected by adopting the use of the card indices referred to on page 44. It is most important, too, that any certificates which are spoilt through error or otherwise should be carefully preserved and filed, together with such of the certificates as are afterwards returned with transfer to be cancelled. A large india-rubber stamp with half-inch block letters bearing the word "cancelled" should be obtained and kept for the purpose of cancelling certificates whenever required. If a certificate meet with an untoward fate through a clerical error, it should be immediately stamped "Cancelled" across the space provided for the Directors' and the Secretary's signatures.

It may be found necessary to deviate somewhat from the form of certificate we have illustrated, to the extent that the space provided for recording the distinctive number of shares is altogether inadequate in instances where a transferee acquires a large holding embracing purchases from a number of transferors. His certificate will consequently represent a complex series of numerical entries which occupy a good deal of space. If these cases are rare a certificate can be made out with a statement in the usual place with the words "see back," when the shares and their distinctive numbers are neatly detailed on the back. Where this is a frequent practice, however, it will be advisable to have special certificates prepared with a side division on the face giving three columns; one for the number of the shares of each group, the other two columns being occupied by commencing and ending distinctive and inclusive numbers of each group, the column for the groups being totalled immediately below the last entry.

With many companies and especially those of the larger kind it is usual to provide registers of share certificates issued and also for certificates cancelled. The two rulings given on page 86 will sufficiently explain the purport of both and will serve as a most useful guide to the directors and the secretary where large batches of

**Form 28.**

**REGISTER OF SHARE CERTIFICATES.**

Date of Meeting	TRANSFEROR.	TRANSFEE.	SHARE HOLDINGS.			CERTIFICATE Nos.		DISTINCTIVE Nos.		Board Minutes No.	Directors' Initials.
			Original Holding	Transferred	Balance of Holding.	Old.	New.	From.	To.		
19- Jan. 29	Lang, A. B.	Smith, L. M. Smithe, N. O.	100 50	20 50	30	987 1513 1514 1515	1513 1514 1515	159101 159121 159171	159120 159170 159200	340	L. H. B. H. D.
" "	Lang, C. D.	Smyth, P. Q.	25	25	Nil	250	1516	9501	9525		
Feb. 12	Ling, E. F.	Smythe, R. S.	50	20 Etc.	30	761 1517 1518 Etc.	1517 1518 Etc.	13206 13226	13225 13255	335	H. D. F. J. B.

**Form 29.**

**REGISTER OF CANCELED SHARE CERTIFICATES.**

Date of Meeting.	OLD CERTIFICATES.			NEW CERTIFICATES :—						Paymce held on old certificate for further Transfers.	Balance Ticket No.	Directors' initials.
	Member's Name.	Certificate Nos.	Share Nos.	To Transferor.		To Transferee.						
				Names.	Certificate Nos.	Shares.	Names.	Certificate Nos.	Shares.			
19— April 15	Johnson, A. B.	1595	500				Corp, R. S. Dark, E. L.	1851 1852	100 200	200	175	H. W. B.
	Johnstone, C. D.	159	100	Johnstone, C. D.	1853	50	E. J., T. U.	1854	50	Nil		H. K.
	Jonsoff, E. F.	1101	50				Fane, V. W.	1855	20	30	176	
	Etc.					Etc.						

certificates have to be examined, signed and sealed. When possible it is advisable to prepare one register, keeping the left-hand pages for certificates issued, the right for those which have been cancelled, balancing off the total shares involved at each meeting, and bringing down, as a balance, the total shares represented by balances held. This may mean an unwieldly book but it will be found most convenient in the long run.

## CHAPTER XII

### FORFEITURE OF SHARES

To make a forfeiture of shares valid, the Articles of the Company must contain express authority to give effect to a forfeiture of shares when a member fails to meet the calls made upon him, and few Articles are compiled without full authority being given to the Directors to deal with such delinquents. The provisions contained in Table A are very full and complete on the subject, clauses 24 to 30 inclusive being devoted to it. Provided that full powers are granted by the Articles, the usual procedure is to give the defaulting shareholder notice, by means of a registered letter, that, after a specified date (the minimum lapse of time between this date and the date of the notice will, in all probability, be made a separate proviso in the Articles), if the payment due in respect of the call demanded be not made, the shares relating to that call will be liable to forfeiture. Should this be without effect, a second notice will be sent, also by registered post, giving notice of the Board's intention to declare the shares forfeit, and reminding the defaulter that he is liable for the unpaid call and for any interest thereon which may be imposed, notwithstanding that he is no longer a member.

If no response is forthcoming to this second appeal, the next step in the matter to make the forfeiture good is for the Secretary or a Director to make a statutory declaration before a Commissioner for Oaths setting forth (a) that the declarant is the Secretary or Director, as the case may be, of the Company; (b) that due notice has been given of the non-payment of the call or calls, and that the calls were made in pursuance of the conditions laid down in the Prospectus, or were in accordance with a resolution passed by the Board in strict conformity with the regulations of the Company; (c) that the said notices were sent by registered post to the subscriber's address appearing in the Register of Members, and that these notices have not been returned by the Postal Authorities; (d) that the calls in question and no part thereof have been received; (e) that a further notice was forwarded intimating the Directors'



intention to pass a resolution, in the event of the instalments not being paid by a certain date, to declare the shares forfeit standing in his name and to re-issue the same in such manner as they may think fit. If the shares have already been re-issued, (f), the name of the party to whom they were issued should be stated in the declaration; also that such re-issue was in accordance with a resolution passed by the Directors in consequence of the forfeiture, and pursuant to the Company's Articles of Association.

It is fortunate that these measures have seldom to be resorted to. The Secretary should observe strictly the manner in which the different points are to be proceeded with. The requirements of the Articles must be adhered to with the most exact preciseness. Forfeiture and surrender of shares must never be employed as a means of disposing of an unwelcome name appearing upon the Members' Register. The powers vested in the Directorate must be employed only for the object for which they were framed.

Particulars as to number of forfeited shares and the total amount represented by them are to be set out in the Annual Return and Summary in the space provided on the front page of that form.

The Articles sometimes contain clauses empowering the cancellation of a forfeiture of shares, but, if this power be exercised, it can only be effectual by obtaining the shareholder's consent to have his name reinstated on the Share Register.

It may be interesting to note that the statutes are entirely silent upon this topic with one exception, that of sec. 26 (2) (g) of the Consolidation Act, 1908, wherein it is required that in providing for the annual return of members the number of forfeited shares shall be stated. Both the new and the old Table A deal with it, so that Companies registered without special Articles of their own would be governed by the regulations contained in these Tables.

Under the Courts (Emergency Powers) Act, 1914, a forfeiture cannot be carried out except after application to the Court. The Act does not prohibit forfeiture, but in effect forbids it unless the permission of the Court is first obtained.

## CHAPTER XIII

### SHARE WARRANTS TO BEARER

THE Articles of most Companies contain powers whereby fully paid-up shares may be converted into share warrants, the property in which passes from one person to another by the mere act of delivery. The holder of any share warrant possesses an absolute title to it unless it can be proved that he obtained it by fraudulent means. If we assume that the Company which issues a share warrant has shares quoted at or above their par value, its share warrants would possess the same exchange value as a bank note of the same amount. In all the larger continental nations, share warrants are very much in vogue, but the practice is, comparatively speaking, very little resorted to in England. By the Companies Act, 1908, powers are granted to limited liability companies by secs. 37 & 38 of that statute to convert their paid-up shares into share warrants to bearer upon the request of the registered holder who makes such application in writing, and who pays the *ad valorem* stamp duty of thirty shillings per cent. upon the nominal value of the shares contained in the certificate, which must, of course, be presented. The Directors may require the shareholder making this application to give such evidence as they may deem to be essential in order to establish his identity. He would further be required to pay such a fee as the Articles prescribe, generally two shillings and sixpence for each warrant. The warrant is issued under the seal of the Company and signed in the same manner as a share certificate, stating the full number and the distinctive numbers of the shares and that the bearer of the warrant is fully entitled to it. The payment of dividend is more often than otherwise provided for by adding to the foot of the warrant coupons numbered and perforated so as to be readily detachable. Each of the coupons must state that the bearer of the warrant is entitled to a quarter, half, or one year's dividend, as the case may be, upon the number of the shares specified, and that the dividend will be paid either at the Company's Registered Office or at its bankers, giving the name and address of the bank, or its branches where payable.

The statutes admit of share warrants to bearer being issued in regard to stock, but the Stock Exchange Committee requires a provision in the Articles of the Company prohibiting it. No exception is taken to the issue of warrants for shares.

The Articles of Association will provide regulations as to the rights to be exercised by the holder of a share warrant. By the revised Table A, clause 38, it is provided that, if the bearer of a warrant deposit it at the Company's office, the depositor, while the warrant remains so deposited, will have the same right of signing a requisition to call a meeting of the shareholders, and at any meeting after the expiration of two clear days from the time of depositing the warrant, of attending, voting, and generally exercising the privileges conferred on the members of the Company who are entered upon its register. The Company is bound, on receiving two clear days' notice from the depositor, to return the warrant to him.

The Articles dealing with the regulations of the Company for the transmission of shares will not apply to shares for which share warrants have been issued. A clause will, in all probability, be inserted in the Articles themselves, giving effect to this exemption.

The name of any person whose share certificate has been converted into a share warrant is to be removed from the List of Members in respect of such shares.

The holder of a share warrant may at any time, upon surrendering the warrant at the Company's Registered Office, and upon payment of the customary registration fee, request that his name be duly inscribed upon the Company's Register of Members for the shares contained in the warrant, and require the warrant to be cancelled and a share certificate made out in his name to be given instead.

The Directors may request the applicant desiring such conversion to make a Statutory Declaration to the effect that he is the rightful owner of the shares specified in the warrant, and that there is no reason why his name should not appear on the list of shareholders.

An important addition has crept into our legislative requirements, information being now required on the subject of share warrants in the annual return (*q.v.*). Sec. 26 (2) of the Consolidation Act, (*h*), (*i*), and (*k*), now makes it necessary to give the amount of shares or stock for which share warrants to bearer are in existence at the date of the return; the full amount of such warrants issued

and surrendered since the last return was made; and the number of shares or the amount of stock represented by each warrant. Spaces for these entries will be found on Form E, which should be consulted.

Before passing on from the subject of share warrants to bearer, there are two other points which the Secretary must on no account ignore. The first one is that the warrants should be forwarded to the Inland Revenue authorities to have the duty stamp impressed upon them *before* they are signed by either the Director or himself, and *before* they bear the Company's seal, though in other respects they must be complete in order that the government officials may assess correctly the requisite amount of duty required on each, viz., thirty shillings per cent., or just three times the amount required for the duty upon a transfer deed. The other point is with regard to the treatment of share warrants in the Company's Registers, which is a matter requiring the greatest care. Whenever a shareholder requests that his share certificate be converted into share warrant to bearer, the only correct way to record the matter in the Register of Members and share ledger is to open an account in precisely the same manner as an ordinary account would be opened for a shareholder, to which account the shares represented on the warrant would be transferred, the two entries being recorded in the Transfer Register, the transferee being "Share Warrants to Bearer Account," and the transferor being, of course, the shareholder desiring the warrants. His request will be numbered in rotation with the ordinary transfer deeds and filed accordingly with them in serial rotation, as though it were a transfer. Thus, this special account will contain full details of all warrants issued. When the warrants are reconverted to share certificates in the manner before explained, the "Share Warrants to Bearer" Account will be credited, and a new account opened by means of another entry in the Register of Transfers, the requisite form being treated again in the same way as a transfer deed, which for the sake of convenience for filing purposes should be prepared on paper of the same size as the usual transfer deed.

In Companies where the issue of share warrants to bearer is largely practised, it is sometimes found necessary to devise a separate register, though this need not be of bulky dimensions. The ruling would be much the same as for the other share registers, simply dispensing with the provisions for names and addresses and cash entries.

Form 30.

COUNTERFOIL.

FORM OF SHARE WARRANT TO BEARER.

SHARE WARRANT.

THE HAVELOCK STEAMSHIP LIMITED.

No. 89

(Incorporated under the Companies Acts, 1908 and 1913.)

10 £10 Ordinary Shares, £100

Share Warrant No. 89. 10 £10 Ordinary Shares, £100.

Nos. 19568 to 19577 inclusive.

THIS IS TO CERTIFY that the bearer of this warrant is entitled to 10 fully paid Ordinary Shares of £10 each numbered 19568 to 19577 inclusive in the above named company, in accordance with, and subject to, the Articles of Association of the company and the conditions endorsed hereon.

568 issued to

ADOLF ADLER.

19 CLAPHAM RISE,

S.W.

Register 60111

10th August, 1911.

19...

FREDERIC FREKE, )

Directors.

TOBIAS TUKE,

WILFRED WAKE, Secretary.

## CHAPTER XIV

### CONVERTING SHARES INTO STOCK

IF the Articles so provide, the Directors may at any time, with the sanction of the members of the Company, obtained at a general meeting, convert any of its shares which are fully paid up, into stock, and this may be done with shares of any denomination. Notice of this conversion must be given to the Registrar of Joint-Stock Companies. The holders of stock will enjoy the same rights and privileges as those exercised by the holders of shares and will be subject to the same regulations. Provision is usually made in the Articles that all words used therein as "shares" or "shareholders" would also imply the words "stock" and "stockholder." With regard to transfer of stock, this is also generally subject to the same conditions as regulate the transfer of the shares from which the stock has been converted; but the Board may, upon giving due notice, and if the Articles make no provision for it, fix any minimum amount of stock which may be transferred at one time or in what multiples. It is customary to find that the Articles prohibit the transfer of fractions of a pound. If the Articles are silent on the matter, however, it would not be irregular to transfer stock in odd shillings and pence. It is, on the contrary, more usual to find that the Articles specify that stock shall only be capable of being transferred in sums of five pounds, ten pounds, or in multiples of some such amount.

Stock may be reconverted into shares by virtue of the Companies Act, 1908, sec. 41 (c), but the Articles must also give power to do this. If the Articles do not give this power of reconversion, the passing of a special resolution will be necessary to alter the Articles to that effect.

The capital of the Company cannot be offered to its prospective members in the form of stock. Stock can only be created from converted share capital when fully paid up.

Conversion of all or any of the Company's shares into stock naturally involves the calling in, to be cancelled, of all existing share certificates so affected, when stock certificates will be prepared

in their stead. On comparing the form of the certificate for stock, it will be found that it differs to a very small extent from the form of share certificate.

The Committee of the London Stock Exchange objects to the issue of share warrants in lieu of stock certificates.

When dealing with stock, the work upon the share registers is necessarily very much lessened, as distinctive numbers are then entirely dispensed with, the various transactions being made from and to the Register of Transfer in measures of money value only and in unbroken pounds. The different forms of account books given for the purpose of recording shares can accordingly be modified to suit the altered requirements, such as dispensing with columns for number of shares and distinctive numbers. The adoption of distinctive numbers seems on first acquaintance to be quite superfluous. They have their advantages, however, as they preserve for a share a distinct and indisputable individuality. No matter through how many hands a parcel of shares may pass from one owner to another, the numbers allotted to those shares are oftentimes of immense assistance to the registrar and his colleagues in settling a bone of contention as to actual ownership. The objection of the Stock Exchange Committee to warrants to bearer being issued for stock is solely on account of the fact that the share numbers appearing upon the face of a share warrant to bearer are of greater importance in such a case than the actual number of the warrant itself, and form the most direct means of establishing their identity as they pass from hand to hand. This will be appreciated all the more by the Company's Secretarial staff when the question of conversion is taken in hand. The handling of stock from the book-keeping point of view appears at first sight to be a great "labour-saving device," but manipulation of shares will be found to be much less liable to error.

## CHAPTER XV

### DEBENTURES

IF its Memorandum or Articles of Association provide the right to borrow, a Company may raise further capital other than by its authorised share (or stock) capital by the issue of debentures. A debenture is a bond for a specified amount bearing the seal of the Company issuing it. A debenture is defined as "a document which either creates or acknowledges a debt" [*re Abercorris Slate Co.* (1888), 37 *Ch. D.*]. It must be under the seal of the company. A form of Debenture is reproduced. A close study of this document is recommended, from which the character of such an instrument will be easily gleaned. Debentures may, or may not, carry a charge on certain or all of the assets of the Company; if they are so secured they are known as mortgage debentures. The Company is required by sec. 100 of the Act of 1908 to keep a Register of Mortgages which affect the property of such Company in any particular. It is now decreed that any issue of debentures carrying a mortgage or charge upon the Company's assets must be filed with the Registrar of Joint-Stock Companies within twenty-one days of such issue. Default in effecting registration subjects the Company, and every person who is an officer of the Company, knowingly and wilfully permitting such issue without registration within the specified time, to a fine not exceeding one hundred pounds. Moreover, any mortgage or charge not registered within twenty-one days of its issue is null and void, though the claim against the Company would still rank as an unsecured debt. The Company is also required to keep at its Registered Office (*q.v.*) a copy of every series of such bonds creating a charge upon its assets. It must also allow any creditor or member to inspect the Register of Mortgages without fee, a fee not exceeding one shilling will be made to any other person. The Register must contain particulars, as to date of issue of each debenture, the amount secured, details of the property charged, and the names of the persons, or mortgagees, to whom the bonds have been issued.

An issue of debentures may be secured by a "trust deed" in which a trustee or trustees are nominated to act as representatives



of the general body of debenture holders, as in the case shown upon the form on pp. 106 to 107, or a charge creating another form of bond may be entered into in the form of a "registered" debenture described (see Debenture Registers on page 104). In the former case the procedure for issue of the debentures is effected by means of a prospectus either as part of, or, separate from, a contemporary offer for subscription for shares.

The important distinction between persons holding debentures and those holding shares in a Company must not be overlooked. If the holding be in debentures carrying a charge, the holder would rank in a winding up as a "secured" creditor. If, however, the debentures carry no charge, then the person in whose favour the bond is issued would only rank as an ordinary, or unsecured creditor. On the other hand, a person holding shares ranks as a member of the concern, a widely different position from that of the holder of a debenture bond. The latter, as it were, would be regarded in the nature of a lender under a special contract: the former may be looked upon in the light of a partner. A debenture carrying no charge is known as a "simple" debenture. Such a debenture is merely an acknowledgment of debt under seal by the Company.

Debentures may be issued at a discount, *e.g.*, a series of debentures for £100 each may be issued for the payment of sums of £95. Again, they may be redeemed at a future specified date, usually after a period of years, at a premium. Moreover, debentures may be issued at a premium and be repayable in such manner as the conditions endorsed upon them provide. With regard to shares, it is unlawful to make an issue of shares at a discount, though it is provided by the Act of 1908, sec. 89 (1) that the issuing Company may pay commissions to such persons as subscribe, or to third parties, but only if such conditions are clearly stated in the Articles and the Prospectus (see also sec. 81 (1) (h)). These provisions admit, in effect, the practice of underwriting a proposed issue, which virtually amounts to offering shares at a discount, otherwise prohibited by the statutes. It is permissible, however, to issue shares at a premium, a practice frequently resorted to. In all cases where debentures or shares are issued at a premium or in any way varying from their nominal amount, they rank in payment of interest on dividend and in distribution of assets only on the basis of such nominal amount, unless the Articles provide otherwise.

Before the actual bonds can be prepared and issued to subscribers, the company may give "scrip" certificates which are similar in character to an allotment letter attendant upon issues of shares. Virtually they serve the same purpose; "scrip" is indeed in some instances used for share or stock instead of letters of allotment. Both documents are subject to the stamp duty under the Stamp Acts, *i.e.*, one penny for any amount of scrip, but for allotment letters the duty depends upon the amount of shares or stock given on the document. A "scrip" certificate, then, is given where an applicant for debentures or a debenture bond succeeds in his application as a subscriber. The document contains information as to instalments already paid and usually the dates and amounts of such instalments as remain to be paid. In some cases coupons are attached to a scrip certificate for the purpose of receiving interest if the first or other periods for the payment of interest occurs before the preparation of the debenture bonds or certificates for debenture stock as the case may be. Such interest coupons also require a penny stamp upon each. Upon completion of instalments the "scrip" is exchanged for debentures. (See form of "scrip" certificate, p. 100.)

The stamp duty payable on registered debenture bonds, where by the conditions endorsed upon them, they are subject to transfer is as follows :—

When the sum secured		s.	d.
does not amount to	£10 . . .	3	
exceeding £10 and not	£25 . . .	8	
„ £25 „	£50 . . .	1	3
„ £50 „	£100 . . .	2	6
„ £100 „	£150 . . .	3	9
„ £150 „	£200 . . .	5	0
„ £200 „	£250 . . .	6	3
„ £250 „	£300 . . .	7	6
„ £300, for each £100			
thereafter or fraction of £100		2	6
		per cent.	

Thus, for a bond of £500 the duty will be 12 6  
If, however the registered security is given for the same security in substitution, and is duly stamped, or is in substitution of a security

to bearer, also duly stamped, the duty is only 6d. per cent., the maximum in that case being 10s.

In all companies registered since the first of July, 1908, any holder of registered debentures is, by section 114 of the Act, entitled to inspect and receive balance sheets and reports of auditors and directors, but this does not apply to "private companies."

A Register of Debenture Holders must not be confused with the Register of Mortgages; a specimen of the former is given on page 104 and of the latter on page 101. The first does not seem to be provided for in the statutes, though it is difficult to conceive how a company can properly conduct its affairs in the absence of such a book efficiently kept. A study of the specimen given will explain its functions which it will be observed are very similar to those fulfilled by Registers of Members or Share Ledgers. In most companies issuing debentures the debenture holders' names and those of the shareholders are all provided for under one general index (see page 72). The keeping of a Register of Debenture Holders is usually imposed by the conditions attendant upon the issue of the debentures; though, as we have said, the statutes do not require it. The entering up of the register will be performed in precisely the same manner as for Share Ledgers. For transfers of debentures, see pages 194-5.

In connection with debentures, regard must now be given to the Trading with the Enemy Amendment Act, 1915, by which no allotment or transfer of any debenture made after the passing of the Act to or for the benefit of an enemy subject shall, unless with the consent of the Board of Trade, confer on the allottee or transferee any rights or remedies in respect thereof.

*Specimen Scrip Certificate.*

No. 106

Id.   
 Stamp

THE A. B. COMPANY, LIMITED.

Issue of £50,000 Mortgage Debentures in 1,000 Debentures of £50 each, bearing interest at £4 10s. 0d. per centum per annum, on the amount from time to time paid thereon.

# SCRIP CERTIFICATE FOR DEBENTURE BOND.

*Emanuel Isaacson, Esq., of 19 Brownlow Mansions, Grosvenor Gate, S.W., is the holder of five Debentures of £50 each in the above named company on each of which there has been paid the sum of £15.*

Further payments on each of the above named Debentures will be due

on the first day of September, 1913, £15 ;  
on the first day of March, 1914, £20.

Upon payment of these two instalments this provisional certificate is to be surrendered at the registered offices of the company in exchange for Debenture Bonds of £50 each, as above.

Issued in accordance with the prospectus covering the above named issue, and dated the 19th day of July, 1913.

*Erasmus Deakin*, Director.

*J. W. H. Christian*, Secretary.

NOTE.—Two receipt forms will be attached at the foot for each of the instalments remaining unpaid, each being detachable by a perforation.

## REGISTER OF MORTGAGES.

Date and No. of Board Minute Creating Charge.	Amount of Debentures.	Date when filed at Somerset House.	Particulars of Property upon which Charge	Names of Mortgagees.	Date when Charge is Removed.
April 1, 19	£50,000.	April 2, 19	Freehold property at 17, 18, 49 Silver St., Golden Lane, E.C., and Gun Wharf, E.C.	Josiah Goldberg, Capel House, E.C., as trustee for debenture holders.	£25,000 redeemed July 19, and notified at Somerset House.
August 5, 19	£20,000	Aug. 6, 19	The whole of the Com- pany's assets, present and future.	The Earl of Cleveland, Cleveland House, Mayfair, W., as holder of second mortgage debentures.	

Impressed

Stamp

1/3

## Mortgage Debenture

OF

### THE A. B. COMPANY, LIMITED.

£50

No. 193

Issue of 50,000 Mortgage Debentures, in 1,000 Debentures of £50 each

Numbered 1 to 1,000 inclusive

Bearing interest at the Rate of  $\text{£}4\frac{1}{2}$  per cent. per annum.

*The A. B. Company, Limited (hereinafter called "The Company"), will on the 1st day of August, 19.. or such earlier date as the principal moneys hereby secured shall become payable, in accordance with the conditions endorsed hereon, pay to JOHN BROWNE, of 419 HIGH STREET, PIMLICO, LONDON, S.W. or other the registered holder of this Debenture, his executors or administrators, the sum of Fifty pounds, due and owing by the Company to the said John Browne, as the Company doth hereby acknowledge.*

*And the Company will, until payment of the principal moneys hereby secured, pay to the registered holder hereof, his executors or administrators, interest on the said sum, at the rate of Four pounds ten shillings per cent. per annum, by half-yearly payments, on the 1st day of February and the 1st day of August in each year, the first of such half-yearly payments to be made on the 1st day of February, 19*

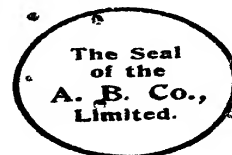
*And the Company doth hereby, as beneficial owner, charge with such payment all its real and leasehold property and interest in lands situate in the county of Loamshire.*

*This Debenture is issued upon, and subject to, the conditions endorsed hereon, which shall be, and be read as, part of this Debenture, and which the Company covenants to observe and perform in every respect.*

*Given under the Common Seal of the Company,  
this 31ST DAY of JULY, 19..*

*G. H., Director.*

*C. D., Secretary.*



THE CONDITIONS WITHIN REFERRED TO.

1. This Debenture is one of a series of 1,000 like Debentures of £50 each, numbered 1 to 1,000 inclusive, issued or about to be issued by the Company for an aggregate amount of £50,000. The Company shall be at liberty to issue further Debentures of a like nature, to rank *pari passu* with the Debentures of this series.

2. The Debentures of this series shall rank *pari passu* as a first charge upon the property, without any preference or priority one over another, and shall until the moneys hereby secured shall become payable be a floating security, and the said Company shall not create any mortgage or charge in priority to the said Debentures.

3. The principal money hereby secured shall immediately become payable if the Company makes default for a period of six calendar months in the payment of any interest hereby secured, and the registered holder hereof, before such interest is paid, by notice in writing to the Company call in such principal money, or if an order is made or an effective resolution is passed for the winding-up of the Company.

4. The principal money and interest hereby secured will be paid at the Registered Office of the Company, or at the option of the Company at some place in London to be named by it.

5. The Company will cause a Register of the Debentures to be kept wherein shall be entered the names, addresses, and description of the holders of the Debentures, and the number of the Debentures held by them respectively.

6. The Registered holder will be regarded as exclusively entitled to the benefit of this Debenture, and all persons may act accordingly, and the Company shall not be bound to enter in the Register notice of any trust or to recognise any right in any other person save as herein provided.

7. The Registered holder for the time being of this Debenture may by instrument in writing transfer the same. The instrument of Transfer shall be left at or sent to the Registered office of the Company with a fee of 2s. 6d., and thereupon the Transfer shall be registered, and the name of the Transferee entered in the Register as holder of this Debenture.

8. In the case of joint Registered holders, the principal money and interest hereby secured shall be deemed to be owing to them on a joint account.

9. In respect of each half-year's interest on this Debenture, a Warrant on the Company's bankers payable to the order of the Registered holder hereof will be sent by post to the registered address of the Registered holder thereof, and the Company shall not be responsible for any loss in transmission, and the payment of the warrant if purporting to be duly endorsed shall be a full discharge to the Company.

10. The Registered holder for the time being of this Debenture, his executors or administrators, shall be entitled to the principal moneys and interest hereby secured free from any equities between the Company and the original or any intermediate holder hereof, and the receipt of such Registered holder, his executors or administrators, for the same principal moneys and interest shall be a good discharge to the Company, which shall not be bound to enquire into the title of such Registered holder, his executors or administrators.

11. The Registered holder of this Debenture may, with the consent in writing of the holders of the majority in value of the outstanding Debentures of the same issue, appoint by writing any person or persons to be a Receiver or Receivers of the property charged by the Debentures, and such appointment may be made at any time after the principal moneys hereby secured become payable, and shall be as effective as if all the holders of Debentures of the same issue had concurred in such appointment. And a Receiver so appointed shall have power—

(a) To take possession of the property charged by the Debentures.

(b) To sell, or concur in selling, any of the property charged by the Debentures. And all moneys received by such Receiver or Receivers shall, after providing for the matters specified in the first three paragraphs of clause 8 of Section 24 of the "Conveyancing and Law of Property Act, 1881" be applied in or towards satisfaction *pari passu* of the Debentures. And the foregoing provisions shall take effect as and by way of variation and extension of the provisions of Sections 19 to 24 of the said Act, which provisions so varied and extended shall be regarded as incorporated herein.

12. The Company may at any time give notice in writing to the Registered holder hereof, his executors or administrators, of its intention to pay off this Debenture, and upon the expiration of six calendar months from such notice being given the principal moneys hereby secured shall become payable.

13. A notice may be served by the Company upon the holder of this Debenture either personally or by sending it through the post in a prepaid letter addressed to such person at his registered address.

14. Any notice if served by post shall be deemed to have been served at the expiration of twenty-four hours after the time when the letter containing the same is put into the post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

## DEBENTURE REGISTER.

Name *Jackson, Henry John.*Description, *Millowner.*Address, *Brightwell Mills,  
Swaffham.*

Debenture Bonds Disposed of.					Debenture Bonds Acquired.								
Date of Transfer.	Transfer Deed No.	Particulars of Bonds.			Total Value.	Date of Entry herein.	No. of Allotment or Transfer.	Particulars of Bonds.		Total Value.			
		Transferer's Name.	No. of Bonds.	Distinctive Numbers of Bonds.				If by Transfer, Transferer's Name.	No. of Bonds.		Distinctive Numbers of Bonds.		
19					£	s.	d.			£	s.	d.	
Dec. 14th	40	L. H. Moon	2	49 and 50	100	0	0	Sept. 10,	A. 31	Allotted	4	159 to 162	200 0 0
			18	Balance	900	0	0	Nov. 1,	T. 19	H. J. Holwell	6	19 to 24	300 0 0
								Dec. 10,	T. 39	W. H. Marks	10	49 to 58	500 0 0
			20		1000	0	0				20		1000 0 0
										Balance	18		900 0 0



Form 35.

No. of }  
Certificate } 016011

## THE COMPANIES ACTS, 1908 TO 1917.

Particulars to be supplied to the Registrar pursuant to S. 93 of the Companies (Consolidation) Act, 1908 (8 Edw. VII, c. 69), of a mortgage or charge created by *Consolidated Loamshire Collieries Company, Limited*, and being :—

- (a) A mortgage or charge for the purpose of securing any issue of debentures ; or
- (b) A mortgage or charge on uncalled share capital of the Company ; or
- (c) A mortgage or charge created or evidenced by an instrument which, if executed by an individual, would require registration as a bill of sale ; or
- (d) A mortgage or charge on any land wherever situate or any interest therein ; or
- (e) A mortgage or charge on any book debts of the Company ; or
- (f) A floating charge on the undertaking or property of the Company.

Strike out the  
Sub-heads (a), (b),  
(c), (d), (e), or (f),  
which do not  
apply.

Presented for filing by

*Edward Edwards,*

• 19 Milk St., Walbrook, E.C.

PARTICULARS of a Mortgage

*Consolidated Loamshire*

(1)	(2)	(3)
Date of the instrument creating or evidencing the Mortgage or Charge.	Amount secured by the Mortgage or Charge.	Short particulars of the Property Mortgaged or Charged.
<i>Trust Deed executed to the Earl of Cashhampton as trustee for debenture holders, April 1st, 19</i>	<i>£50,000</i>	<i>All Freehold land situate in the county of Loamshire, at present in the Company's possession.</i>

Dated the 3rd day of April, 19

Form 35 (continued).

or Charge Created by the

*Collieries Company, Limited.*

(5)

Amount of rate per cent. of the Commission, Allowance or Discount (if any) paid or made either directly or indirectly by the Company to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any of the Debentures included in this Return.

Names (with Addresses and Descriptions) of the Mortgagees or Persons entitled to the Charge.

*The Rt. Honble. The Earl of Cashhampton,  
D.L., Cashhampton, Loamshire. Trustee.*

*Nil.*

Signature

*Edward Edwardes  
Secretary.*

Form 36.

No. of  
Certificate 789129

COMPANIES ACTS, 1908 TO 1917.

Memorandum of Satisfaction of Mortgage or Charge  
created by *The Tweedledum Tobacco Plantations  
Company,*

..... Limited

to be entered on the register pursuant to s. 97 of  
the Companies (Consolidation) Act, 1908 (8 Edw. 7  
ch. 69).

Presented for filing by

*Samuel Slump,*

*9851 The Shambles, Sheffield.*

DECLARATION VERIFYING MEMORANDUM OF SATISFACTION.

*The Tweedledum Tobacco*

*Plantations Company, Limited.*

WE, *Horatio Herbert* of *The Exchange, Sheffield*,  
a Director of the above-named Company, and *Samuel*  
*Slump* of *9851 The Shambles, Sheffield*, the Secretary  
of the above-named Company, solemnly and sincerely  
declare that the particulars contained in the Memor-  
andum of Satisfaction dated *first day of April, 19..*  
now produced to us, and marked "A," are true to the  
best of our knowledge, information and belief.

And we make this solemn Declaration, conscientiously  
believing the same to be true, and by virtue of the  
provisions of the "Statutory Declarations Act, 1835"

Declared at *9 The Bargate, Sheffield*,  
the *first* day of *April*, one thou-  
sand nine hundred and      before me  
*David McCaffrey*,

*Horatio Herbert.*  
(*Samuel Slump.*)

A Commissioner for Oaths

"A."

TO THE REGISTRAR OF JOINT-STOCK COMPANIES.

*The Tweedledum Tobacco Plantations Company,*

..... Limited

(a) Insert here "mort-  
gage" or "charge,"  
"debentures" or "de-  
benture stock," as the  
case may be.

hereby gives notice that the (a) *mortgage*  
*debentures* dated the *first* day of *April*,  
one thousand nine hundred and .., and created  
by the Company for securing the sum of £25,000  
was satisfied to the extent of £25,000 on the  
*first* of *April*, 19..

In witness whereof the common seal of the  
Company was hereunto affixed the *first* day  
of *April*, one thousand nine hundred and  
..... in the presence of

*Horatio Herbert*

..... Directors.

*Gregory Griggs*

Seal of  
Company.

*Samuel Slump*, Secretary.

This is the memorandum marked A entered in the Declaration  
of *Horatio Herbert* and *Samuel Slump* made the  
*first* day of *April*, 19..

Before me, *David McCaffrey*,

A Commissioner for Oaths

## CHAPTER XVI

### PROCEDURE AS TO DIRECTORS' MEETINGS

THE general conduct of the Company's affairs by a body of gentlemen known as the "Board of Directors," who have been appointed as such by their co-members, will now occupy our attention. By section 71 of the Companies Act, 1908, "(1), Every Company shall cause minutes of all proceedings of general meetings (and, where there are directors or managers, of its directors or managers) to be entered in books kept for that purpose; (2) Any such minute, if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings; (3) Until the contrary is proved, every general meeting of the Company or meeting of directors or managers in respect of the proceedings whereof minutes have been so made shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had, and all appointments of directors, managers, or liquidators shall be deemed to be valid."

Although we are now dealing only with the subject of Directors' meetings, it has been thought expedient to quote the full text of this important section of the principal Act, which will also be referred to when dealing with the subject of shareholders', or "ordinary" meetings. The section deals with the necessity of keeping proper records of all business transacted at any meeting, and with the validity of those transactions.

The Secretary will, however, require to consider carefully the clauses of the Articles of Association of his Company, drawn up for the purpose of regulating these frequently recurring meetings. The points to be observed specially are as follows, and are such as will be found in the majority of special regulations, or Articles, as now framed for Companies incorporated at the present time :—

- (a) Meetings of the Board will be held at such times and places as the Directors may amongst themselves determine. Any

one Director may request the Secretary to summon a meeting of the Board at any time.

- (b) Voting at meetings of the Directors will be decided by a majority of those present, a quorum having been formed. If an equality of votes should occur, the Chairman has a second or casting vote. What number of Directors shall constitute a quorum will depend upon the magnitude of the Company, or, in a greater degree, the number of Directors comprising the Board. If the Articles do not prescribe any special number required to form a quorum, then a majority of the Directors would be a quorum. Some Articles allow the Directors themselves to decide as to what a quorum shall consist of, but this is not usual.
- (c) When vacancies occur in the list of Directors, and they are reduced to a less number than that provided for by the Articles of the Company, the remaining Directors may appoint other members of the Company, such members being qualified to be Directors, to fill the vacancy or vacancies. They may summon a general meeting of the members for the purpose of appointing new Directors. But they can do no other act until the requisite number of Directors are appointed.
- (d) The Directors will decide as to which of their number shall be elected to the office of Chairman, and for what period. Where no Chairman is elected, or if a Chairman so elected be not present within a specified time, say fifteen minutes from the time of the commencing of the meeting, the Directors present may choose a Chairman for that meeting.
- (e) Provision is usually made for the appointment of Committees consisting of any number of Directors to transact certain specified business. Unless the Articles require that a minimum number of two or more Directors shall comprise



a Committee, it will be quite in order to appoint a "Committee" of one Director. But the business transacted by any such Committee must be reported to, and confirmed at, a subsequent meeting of the Board. The same regulations with regard to Chairmen of Committees apply as in the case of the provisions hereinbefore recited with regard to Chairmen of the Board, as also the question of voting.

- (f) Any business transacted at meetings of the Directors, or by a Committee, will be perfectly valid, though it may be afterwards shown that any Director voting for the business carried at any meeting was not qualified to act as a Director, or though any defect had occurred in his appointment.

Such are the provisions generally to be found in the average set of Articles of Association, as now drawn up, for the regulation of the Company's Directors' meetings, and all proceedings at these meetings must be in strict conformity with them.

Proper notices must be given to each member of the Board of all meetings to be held, or of meetings of any committee of the Directors appointed by the Board. Most Articles provide for this, but it is nearly always found that, if a Director is absent from the United Kingdom, he is not entitled to receive notice. On the other hand, it may be laid down that a notice of the meeting must be sent to his registered address, even though he be abroad. It has been held that business done at a meeting of which proper notice had not been given was invalid. The greatest care must, consequently, be observed with regard to notices of meetings. It is not necessary to state in the notice what business is to come before the meeting. But the Directors may pass a minute to require that notices of their meetings shall be made out in some form to be approved by them, and that, when any special business is to be brought up for their consideration, a brief intimation of the nature of that business shall be embodied in the notice of the meeting at which it is proposed to deal with it. A notice similar to the following specimen will be found a good one to employ for all purposes of Board meetings:—

Form 37.**THE X.Y.Z. COMPANY, LTD.***Board Meeting.*

A Meeting of the Directors of the Company will be held at the Registered Offices, 99 Milk Street, Walbrook, E.C., on Wednesday next, December 17th, 19... at 2.30 p.m.

ADOLPHUS BLUNT,  
*Secretary.*

Business to be transacted—

General, and consideration of the proposed purchase of a business in Wardour Street, W.

99 Milk Street,  
Walbrook, E.C.  
*December 10th, 19...*

A Director may require a notice to be sent to some address other than the one registered in the Company's books. In such cases, the Secretary should obtain a written request so to act, and, further, the request should state for how long the instructions are to remain in force.

A book of convenient size must be obtained to be used as the "Directors' Attendance Book." A page of this book should be devoted to each meeting of the Board and used in the following way:—

Form 38.

*Board Meeting*  
*held the 17th December, 19.*  
*at 2.30 p.m.*

Present—

*Jeremiah Oldfield (Chairman),*  
*John Mackay, Colonel*  
*Reuben Aarons,*  
*Jabez Wright,*

*Directors.*

*Alphonse Rashleigh,*

*Secretary.*

In attendance—

*Johnson Brownlow, of*  
*Messrs. Uriah Heap & Co.,*  
*Solicitors.*

*Andrew Double, of*  
*Double Entry & Co., Auditors*

All the names given in the case of the Directors and officers would be the actual signatures of the gentlemen attending. The Secretary should be careful to see that these names are entered by the Chairman of the meeting, in the space provided upon the agenda.

The form and preparation of the agenda will now occupy our attention.

There is at present a very prevalent practice of preparing agenda upon loose sheets of foolscap paper instead of employing a proper Agenda Book. We do not propose to discuss the advantages or objections to either course further than to say that the practice of having the agendas of all meetings in book form, and easily traceable at a future time, has much to commend it. Moreover, if at any time the correctness of the minutes prepared from these agendas is laid open to the slightest question, it will be found a simple matter to compare the corresponding records in the two books. Unfortunately, it will be found that most Chairmen are extremely indifferent with regard to the entries they make on agenda papers during the progress of a meeting, and the Secretary should never hesitate to request his Chairman to amplify his entries if there appears to be the slightest suspicion of ambiguity or incompleteness in any part of them. It is essential that Chairmen should insist upon the items of the agenda being dealt with *seriatim*, and not allow discussions to take place upon any subject unless taken in its proper rotation, *i.e.*, in numerical order.

It will be an advantage to have a copy of the agenda prepared for the use of each Director. If the members of the Board are numerous, this can easily be done on a typewriter by means of any one of the well-known duplicating devices; or, where there are only three or four in addition to the Chairman, ordinary carbon copies can be made upon the typewriter at one operation. This acts as a sort of "programme" of the Directors' proceedings, and is the best aid to the Chairman and Secretary in keeping the order of rotation uninterrupted, not always an easy matter when a Board includes one or more impulsive spirits.

All books and papers required at the meeting should be carefully arranged on a side table, in the order in which they will be required, and in such a way that the Secretary can instantly produce them.

The form here given will serve as a specimen of the manner in

which an agenda should be prepared. The numbered entries to the left hand of the page are those entered by the Secretary ; on the right are seen the notes recorded by the Chairman of the meeting. In actual practice, the former will occupy one whole page to the left of the open book, the latter entries the page facing it, assuming that the usual foolscap-size book is in use.

## Form 39.

## AGENDA •

of Board Meeting, October 1st, 19.., at the  
Company's Registered Offices.

## 1. Present.

*J. Oldfield, Chairman.*  
*Colonel John Machay,*  
*Reuben Aarons.*  
*Jabez Wright*

*Directors.*

*A. Rashleigh,*  
*Secretary.*

*J. Brownlow, Solicitor.*  
*Andrew Double, Auditor.*

In attendance.

*Read, approved, and signed.*

## 2. Read minutes of last meeting

## 3. Banker's Pass Book and Cash Account, with a statement of Ways and Means to be submitted.

Cash on Capital %	£1,598	3	
Do. Deposit	10,000	0	
Do. Revenue %	781	17	
	£12,380	0	9
Sundry Debtors ..	£3,895	7	4
Immediate Liabilities			
Capital % ..	£1,208	0	0
Immediate Revenue	1,145	8	5
	£2,353	8	5

*Secretary instructed to request the bank to transfer £2,000 from Deposit %c. £1,000 to Capital, and £1,000 to Revenue.*

## 4. Produce list of accounts for payment :—

Capital % ..	£1,208	0	0
Trading %c ..	1,145	8	5
	£2,353	8	5

and sign cheques in payment.

*Ajcs approved with exception of Messrs. Baldwin's for £500 on %c of Buildings. Referred back to Architects. Secretary instructed to write them complaining of delay.*

*Remaining cheques signed.*

5. Preference Share Certificates Nos. 501 to 1169 inclusive to be signed and sealed.
6. Ordinary Share Certificates Nos. 1 to 681 inclusive to be signed and sealed.
7. Submit Transfer Deeds (Preference) Nos. 49 to 83 inclusive. Sign certificates in favour of transferees with balances to transferors.
8. Consider date for holding Statutory Meeting and draft of notice.
9. Consider Draft Report to be submitted to the Statutory Meeting.
10. The Solicitor to report on the Company's proposed tenancy of Cannon Wharf, Bondgate, E.C.
11. Employers' Liability Insurance. List of employees and their wages to be submitted.

*Ordered to be signed and sealed.*

*Do.*

*Transfers passed and approved. New Certificates, ordered to be signed and sealed, as follows:—*  
*Preference Nos. 1170 to 1208 inclusive*

*Decided to be held on October 19th, 19... at three o'clock, at the Whitehall Rooms, Westminster. The Secretary reported that he had arranged for accommodation for 200 shareholders on that day at the above rooms. Action was approved.*

*The draft notice of the meeting was also approved, the Secretary being instructed to have same printed.*

*Mr. Double reported that he had audited the accounts and had found the statements contained in the Report relating to financial matters correct.*

*Mr. Brownlow reported the remaining portion of the Report in order.*

*The Secretary was instructed to have the Report printed without delay and despatched to the shareholders, with the notice of the meeting, not later than the 10th inst.*

*The draft lease was read. The Board considered that, in view of the curtailment of the tenure from the period originally proposed and an increased rental, Mr. Brownlow should endeavour to obtain more favourable terms as to rent. This he undertook to do, and would report at the next meeting.*

*Secretary directed to submit the copies of the lists to the following Companies and obtain tariffs by next meeting:—*

*The Ocean Assurance Co.  
 The Employers' Liability Insurance Co.  
 The Guardian Assurance Co.,  
 and  
 The Norwich Union Insurance Society.*

## 12. Secretary to report on :—

(a) Filing of Allotment Returns.

(b) Filing particulars of Issue of Debentures at last meeting.

*Reported. Registrar's receipts for filed forms to be pasted in Register of Documents.*

## 13. Trading Returns to be presented with Gen. Manager's Report.

*\* Returns\* and report read. The Manager reported that, since the report had been prepared, a large order from H.M. Government for 8,000 tons coal had been received.*

## 14. Next meeting.

*To be held at these offices on the 8th inst. at three o'clock p.m.*

(Chairman's initials) J. O.

Before the meeting terminates, the Secretary should carefully run through the entries in the above agenda and satisfy himself that all have been properly and fully made, though, with an experienced Chairman, this would, probably, be unnecessary, as he would read out to the Board the notes he has made opposite each item on the sheet, as it is disposed of, at the same time obtaining his colleagues' assent to the record made. Chairmen of this description are, however, few and far between: the general factotum of these Directorial functions—our friend the Secretary—must consequently be always on the *qui vive* to prevent any awkward omissions, irregularities, or ambiguous entries, or trouble will, without the least doubt, ensue. Above all, he should never take verbal instructions upon the business appearing on the agenda, or allow any point "to be mutually understood."

At the close of the meeting, the various books and papers must be collected and placed in their appointed places. Any correspondence arising out of the Directors' deliberations or decisions must be dealt with without delay, if possible on the same day. When this has been done, and the cheques and share certificates have been countersigned and handed over to the clerks or other officials who may be responsible for them, the Secretary will then devote his attention to the drafting of the "minutes" of the meeting.

The Minute Book, as it is generally styled, is the book required to be kept by all companies under section 71 of the Companies Act, 1908 (see page 263). Like the Agenda Book, the Minute Book best employed is that of a type usually sold by Law Stationers, of the same dimensions as the Agenda Book, containing an ample

index. Each page should be numbered and bear a line down the left-hand side to form a margin of about an inch-and-a-half or two inches. A very useful point to observe in writing up minutes is that they shall be serially numbered and indexed, the references in the indexes being made thus:—

“ *Employers' Liability Insurance.* “16/81.”

This will mean that the minute sought will be found on page 16 of the book, the second number denoting the number of the minute. Marginal references are frequently made opposite each minute, this being a great convenience in making backward and forward references throughout the book. A reference opposite the entry in this way

“ *Lease of Cannon Wharf.* 67 ”  
98

will enable one immediately to refer back to minute 67, the entry preceding, and forward to minute 98, the succeeding entry. A more important point is that each minute shall be as concise as possible without omitting any material feature, or giving the slightest doubt as to the meaning of the decision. It must always be borne in mind that the minutes are construed by the Courts to contain conclusive evidence of the Board's transactions, and so must be drawn up in such a way as to admit of no possible doubt whatever.

It is necessary to make some reference in the Agenda Book to the number of the minute when entered up. The usual practice is merely to fill in in red ink the minute number at the end of the Chairman's entries on the agenda.

We will now draw up minutes such as should be prepared for a meeting, the agenda of which appears in the preceding pages:—  
**Form 40a**

*The seventh meeting of the Board of Directors was held at the Registered Offices of the Company on Tuesday, October the first, 19.., at three o'clock p.m.*

• *There were present:—*

*Mr. J. Oldfield, in the chair.*

*Colonel John Mackay,*

• *Mr. Reuben Aarons,*

• *„ Jabez Wright, Directors,*

*and Mr. A. Rashleigh, Secretary.*

*Messrs. J. Brownlow, Solicitor, and Andrew Double, Auditor, were in attendance.*

72. *The minutes of the last meeting of the Board, held on the 24th ultimo, were read, approved as correct, and signed. The question was put as to any business arising from the minutes of the last meeting. There was no response.*

Ways and Means.

73. *The Secretary produced the Bank Pass Book, together with a statement of the current cash account showing:—*
- |  |                |          |          |
|--|----------------|----------|----------|
| Cash on Capital % (including £10,000 on deposit) | £11,598        | 3        | 8        |
| Do. Revenue %                                    | 781            | 17       | 1        |
|  | <u>£12,380</u> | <u>0</u> | <u>9</u> |

*A further statement of Ways and Means was also produced showing:—*

Approximate Liabilities on Capital %	£1,208	0	0
Do. do. Revenue %	1,145	8	5
	<u>£2,353</u>	<u>8</u>	<u>5</u>

*Approximate amount of Debtors: %s* £3,895 7 4

*The Secretary was directed to ask the Bankers to transfer the sum of £2,000 from Deposit to Current %s: £1,000 as to Capital, £1,000 as to Revenue.*

Payments.

74. *Lists of accounts due for payment, with their corresponding vouchers were submitted, aggregating as follows:—*
- |                          |               |          |          |
|--------------------------|---------------|----------|----------|
| For Payment on Capital % | £1,208        | 0        | 0        |
| Do. do. Revenue          | 1,145         | 8        | 5        |
|                          | <u>£2,353</u> | <u>8</u> | <u>5</u> |

*The several accounts were approved and cheques therefor were ordered to be signed, with the exception of Messrs. Baldwin's account for buildings for £500, which the Secretary was instructed to refer back to the architects with a complaint as to the delay.*

Certificates to allottees.

75. *Preference Share certificates Nos. 501 to 1169 inclusive in the names of sundry allottees were submitted and approved, when*

*IT WAS RESOLVED that the Company's Seal be accordingly affixed thereto.*

Certificates to allottees.

76. *Ordinary Share certificates Nos. 1 to 681 inclusive in the names of sundry allottees were submitted and approved when*

*IT WAS RESOLVED that the Company's Seal be accordingly affixed thereto.*

Transfer of Shares.

77. *Transfer Deeds numbered 49 to 83 inclusive as appearing in the Transfer Register were submitted, together with Preference Share certificates Nos. 1170 to 1208 inclusive in favour of sundry transferees and transferors as detailed in the Transfer Register. The deeds being sanctioned and passed by the Board.*

*IT WAS RESOLVED that the Company's Seal be affixed to the aforesaid certificates.*



Statutory 78.  
Meeting, Date  
and notice of.

The question of the holding of the Statutory Meeting was again under consideration. The Secretary having reported that he had made inquiries at the Whitehall Rooms, Westminster, where it was found that a suitable room could be obtained on the date suggested at the previous meeting, the Board decided to fix the meeting for that date, October 19th 1908, at the above mentioned address at three o'clock; the Secretary being instructed to confirm this decision with the proprietors of the rooms.

Statutory 79.  
Meeting,  
Report to.

The draft of the notice convening the meeting was then submitted and approved, and a sufficient number of copies were ordered to be printed and posted to each shareholder not later than the 10th inst.

The draft of the Report to be submitted to the statutory meeting and forwarded to the shareholders was read. Mr. Double gave his opinion that the various statements with regard to financial matters were quite in order, and Mr. Brownlow considered that the report as a whole satisfied the requirements of sect. 81 of the Companies Act, 1908. The Report was accordingly signed by Mr. Oldfield and Colonel Mackay, as Directors, and by Mr. Double for and on behalf of the Company's Auditors, whereupon the Secretary was directed to have the Report printed and distributed amongst the members with the notice of the meeting to be despatched as required by the preceding minute. A copy of the Report was also directed to be filed with the Registrar of Joint-Stock Companies in the manner provided by the Statutes.

Lease of 80.  
Cannon Wharf.

Mr. Brownlow read correspondence dealing with his negotiations as to the Company's proposed tenancy of Cannon Wharf, Bondgate, E.C., also the draft lease purporting to require a curtailment of the tenure from the period originally suggested, with an increase upon the proposed annual rental. After some discussion, it was decided to ask Mr. Brownlow to endeavour to obtain the premises on lease for the number of years now proposed but that the rental should be as originally proposed—£800 per annum.

Employers' 81.  
Liability  
Insurance.

The Secretary produced a classified list of the Company's employees, showing the approximate annual earnings of each group and the estimated cost of insuring the risk under the Employers' Liability Acts. The Secretary was instructed to submit an abridged statement of the lists, as prepared, to the following Insurance Companies with a view to obtaining the lowest quotation to effect the insurance:—

- The Ocean Assurance Co., Ltd.,
- The Employers' Liability Assurance Co., Ltd.,
- The Guardian Assurance Co., Ltd.,
- The Norwich Union Insurance Co., Ltd.

Filing 82.  
Returns at  
Somerset  
House.

The Secretary reported on, and produced vouchers of, the filing of the following with the Registrar of Joint-Stock Companies, copies of the returns being laid upon the table:—

- (a) Complete return of all Allotments made by the Board and comprising the whole of the Company's issued share capital.

(b) *Particulars of the last of the series of Debentures issued by the Board at their last meeting.*

*The Board ordered these copies to be carefully preserved and that the Registrar's vouchers be pasted into the Register of Documents.*

- |                  |     |   |
|------------------|-----|---|
| Trading Returns. | 83. | <i>The weekly return of sales, output at Pit's mouth, and wages was read. The manager stated that, since the compiling of the report, an order had been booked from F.M. Government for 8,000 tons of steam coal during the ensuing three months.</i> |
| Next Meeting.    | 84. | <i>The next meeting of the Board was fixed for the 8th inst. at three o'clock, at the registered offices.</i>   |

*Jeremiah Oldfield,  
Chairman.*

*October 8th, 19.....*

The foregoing minutes do not, of course, contain even a tithe of the multitudinous subjects which come up for consideration at meetings of Directors. It is only sought to give in them examples of the manner in which the deliberations of the Company's controlling body should be recorded. It will be seen that a large proportion of the entries take the form of a narration, so to speak, and do not require to be set down in the stereotyped phrase of a resolution by the Board. There are many other instances than those given, however, where this will be necessary, as, for instance, in making allotments of shares; announcing the Board's intention to make a call upon unpaid capital, even where this is in pursuance of the terms of the Prospectus; authorising the issue of debentures or in any way exercising the borrowing powers contained in the Articles of Association; the appointment of officials, and other important decisions. It is not usual to state in the minutes of the Board the names of the proposers and seconders of any motion which may be carried, or of an amendment whether carried or lost. But where a Director has intimated to the meeting his dissent from the general agreement of his colleagues he may request the Chairman to enter such dissent upon the agenda and the Secretary must see that it is entered from there to the minutes. Again where a motion has been put to the vote and carried with either a small or large majority the Directors forming the minority may ask to have their dissent entered on the records.

Procedure at Board Meetings differs very materially from

that of shareholders' meetings where of course anyone desiring to address the meeting would rise to address the chair. At meetings of the Board the proceedings are of a much more informal character, all present remaining seated throughout the proceedings which partake rather more of the nature of a discussion than of a debate. It is necessary for the Chairman to ask whether any other points arise on any one item of the agenda before passing on to the next.

## CHAPTER XVII

### COMMITTEES OF THE BOARD

WE have previously referred to the practice of a Board of Directors appointing a Committee, to consist of certain specified members of their body, or of a given number of the Directors, to carry out certain matters of business usually transacted at the meetings of the Board called for general purposes. Such an arrangement is extremely useful in all Companies where a large amount of work is entailed in dealing with transfers of shares, or, in the Company's initial stages, in making allotments. Committees are often permanently appointed by their colleagues to manage the financial arrangements. In all cases, the transactions of such a Committee must be embodied in the form of a report to be submitted to the Board meeting next ensuing, and, if approved, to be confirmed. This report, if so confirmed, would be copied into the Minute Book and so form a record of the proceedings enacted. At all meetings of a Committee so constituted, the Secretary should attend and act in precisely the same way as at a regular meeting of the Directors. He should draw up a report giving full details of the business submitted and of the manner in which it was disposed of, the names of the Directors who were present, and who acted as Chairman, finally obtaining the signature of each one to the report. In many of the larger Companies, where Committees of the Board are a standing custom, it has been found necessary to provide subsidiary minute books. Where this practice prevails, such a course is strongly advised, insomuch that it dispenses with the keeping of a series of reports from a Committee or Committees. The necessary references are made in the general Minute Book of the full Board to those transactions of the several delegated bodies appointed for specific and regular duties.

It is usual for Articles of Association of practically all Companies to give express powers to the Directors providing for a delegation of their duties to Committees. An inspection of clauses 91 to 94 of Table A will be instructive in this connection. The principle must always be kept in view that any delegated body may not do any act which is not within the scope of the body creating such

delegated body, for it is obvious that a Committee of a Board may not go beyond the powers which are vested in that Board. It must further be borne in mind that the existence of a Committee may at any time be terminated by the Board which established it. There appears to be nothing to prevent the appointment of one Director to act as a "Committee" (as *in re Taurine Co.* 25 C.D.) unless the articles forbid. This is undesirable, especially so as a meeting could not be so called unless it consisted of two or more persons.

The constitution of a Committee must be specific as to its members and the powers conferred upon it; and, usually, it will be found that the articles require any Committee appointed by Directors to adopt the same procedure for their meetings as those prescribed for the Board itself. In appointing a Committee great care should be exercised in entering the minutes of the Board; as, upon the wording of the minute dealing with the establishment of the Committee, the constitution of that body will depend. Let us take a case in point. It is desired to appoint a Committee of Directors for the purpose of dealing with transfers and the issue of certificates. The following resolution for the agenda of the Board should be drafted:—

#### **Form 41.**

*It having been decided to deal with the business of transfers and the issue of share certificates at more frequent intervals and to minimise the necessary time at ordinary meetings of the Board, it was deemed advisable to appoint a Committee of three Directors for the purpose. And it was Resolved:—*

- (1) *That Messrs. Samuel Salt, William Whatley, and Thomas Timms be severally and jointly appointed to form the said Committee.*
- (2) *That the Secretary shall attend all meetings of the Committee.*
- (3) *That the Committee shall do all usual and necessary acts in regard to the passing of transfer deeds submitted to the Board for approval, and issue share certificates in connection therewith using the Company's seal for the purpose.*
- (4) *That the Committee shall elect a Chairman among themselves.*
- (5) *The Committee shall report to the Board at their meeting next ensuing the report to state:—*
  - (a) *The date and place of the meeting.*
  - (b) *The inclusive numbers of such transfers as may be dealt with and the inclusive numbers of share certificates of either class corresponding to shares taken by transferors and balances to transferees; and the total number of shares of either class affected; and*
  - (c) *That the respective transfer deeds, share certificates and the corresponding entries in the Register of Transfers, the Registers of Certificates, the Register of Seals have been properly examined.*

*The report to be signed by each of the Directors present and the Secretary.*

- (6) *That a quorum for the purposes of the Committee be two of the Directors, hereby appointed.*
- (7) *That the Secretary shall give notice of each meeting to members of the Committee.*
- (8) *Vacancies on the Committee will be filled by reference to the Board.*

It will be noticed (clause 94 Table A) that any acts done by a Committee will be perfectly valid, any defect in its appointment or disqualification of its members notwithstanding. It will be remembered that this is so in regard to decisions and transactions of the Board itself. It is sometimes found, though not often, that in appointing a number of Directors as a Committee the Board itself will name a Chairman from among those selected, but perhaps the more general course of leaving this point to be decided by the Committee is the wiser. Whoever is appointed as Chairman should always so describe himself when signing reports to be submitted to the Board.

A report from such a Committee may be drawn up as follows :—

#### Form 42.

##### REPORT OF SHARE TRANSFERS COMMITTEE.

Meeting held at registered offices on Monday, May 19th, 19..

Transfer Deeds (Ordinary Shares) Nos. 1415 to 1438 inclusive, were submitted and passed. Ordinary share certificates Nos. 1586 to 1628 inclusive were issued for 3154 shares, as per share certificates register.

Transfer Deeds (Preference Shares) Nos. 965 to 971 inclusive, were submitted and passed.

Preference Share certificates Nos. 1261 to 1273 inclusive, were issued for 750 shares as per share certificate register.

*It was Resolved* that the Company's seal be affixed to the aforesaid Ordinary and Preference share certificates.

(Signed) *Samuel Salt* (Chairman).  
*William Whatley*.  
*Thomas Timms*.  
*Henry Herbert* (Secretary).

If the Committee does not keep a Minute Book for its own transactions, it will be necessary to copy this report into the minutes for the Board Meeting, and a resolution must be passed adopting it. It is advisable, however, to treat all meetings of Committees upon precisely the same basis as for the full Board, preparing the usual agenda and writing up minutes in separate books, in both cases. Where this is done the Minute Book of the Committee would be produced; whilst the Board, in adopting the report, would order the report to be filed, and a reference in the Board minutes would be made to the particular minutes of the Committee.

The particular kind of Committee to which we have alluded, is only an instance of one body which can be created by the board. If the Board of Directors consists of a large number of members, it would be usual to find three or even more bodies with special powers delegated to them, but all would be appointed upon the same principle. A Finance and Ways and Means Committee is as frequently found as a Share Transfer Committee. The function of a Finance Committee would be to deal with the customary routine of examining the cash and pass books, lists of debtors and creditors, to sign cheques, pay dividends, etc., and generally investigate periodically the Company's resources and commitments. Such a Committee may also be called upon to go into the question of raising additional capital, but more frequently a special Committee of larger numbers would be appointed for such a purpose. Another Committee may be established to deal with "Trade Statistics" where a Company has a variety of undertakings, even of the same description. Work of this kind can be usefully and safely discharged by a smaller body where it is part of the regular routine of the business to collect and collate data of this description, the Committee being entrusted with the task of regularly investigating and reporting on business returns involving turnover, production, expense, etc.

Committees charged with the duty of dealing with Transfers, Finance or Trade Statistics respectively would be regarded as permanently constituted bodies, but the Board may be confronted with the question of the need for additional capital, or, perhaps possessing the wherewithal, they deem it advisable to expand their premises, or again the necessity of establishing a profit-sharing scheme for employees may be proposed. The opening of additional branches or even amalgamation may come up for consideration. In any of these cases a special Committee could be formed, and furthermore, this is often the most satisfactory way of approaching and dealing with such business. The Committee being charged to investigate fully and report on such subjects is the quickest and surest means of placing before the Board all the necessary information required to enable it to come to a decision.

## CHAPTER XVIII . 'SHAREHOLDERS' MEETINGS

FOR the protection of shareholders, all Companies are required to hold an annual meeting of their members, at which the affairs and position of the Company are reported on by the Directors responsible for its welfare. These are the only occasions when the shareholders exercise any control over the Company's business. Until the passing of the Companies Act of 1900, it was quite possible for a Company's business to pass without review by its members for a space of nearly two years. Before this Act came into operation, the only actual requirements in the statutes in this respect were to be found in the Companies Act, 1862, sect. 48, which provided for the holding of a meeting of shareholders "once at least in every year," the term "year" being interpreted as the calendar year. It thus became quite competent for directors to refrain from calling a meeting from January in one year to the month of December in the next. The Act of 1867, section 39, required a meeting of every Company to be called within the space of four months after the date of the registration of the Memorandum and Articles of Association, and inflicted a penalty upon every person who was a signatory to the Articles, and also on Directors and Managers of the Company who failed to comply with the requirements of this section. This was repealed by section 33 of the Companies Act, 1900, and section 12 of that Act was substituted for it. This latter section, now supplanted by section 65 of the Consolidation Act, provided for the calling of what is termed the "statutory" meeting, and imposed some extremely onerous requirements on all Companies which were incorporated after January 1st, 1901. The new section itself is a rather extensive one, but we quote it here in a condensed form. Sub-section (1) requires:—

Every Company limited by shares to hold a meeting not less than one month or more than three months after the date when it becomes entitled to commence business, and that such meeting shall be called the "statutory meeting."



## THE COMPANIES ACTS, 1908 TO 1917.



A 5/-  
Companies'  
Registration  
Stamp  
must be  
impressed  
here.

REPORT pursuant to s. 65 of the Companies  
(Consolidation) Act, 1908, of the *Consolidated*  
*Loamshire Collieries Company, Limited.*

NOTE.—This form has been provided for the purpose of  
indicating the nature of the information that is required ;  
but the Report to be filed must be a copy of that sent to the  
Shareholders.

(1) Here state  
as "fully paid  
"up" or "paid  
"up otherwise  
"than in cash to  
"the extent of  
"per share."

(a) The total number of shares allotted is 300,000,  
of which 75,000 are allotted (1) *fully paid up otherwise*  
*than in Cash to the extent of twenty shillings per share*  
in consideration of *part purchase price under*  
*agreement for sale and purchase dated April 1st, 19...*  
and upon each of the remaining shares the sum of  
15/- on 150,000 Preference and 20/- on 75,000 Ordinary  
has been paid in cash.

(b) The total amount of cash received by the  
Company in respect of the shares issued wholly for  
cash is £187,500, and on the shares issued partly for  
cash is £ nil.

(c) The Receipts and Payments of the Company  
on Capital Account to the date of this Report are as  
follows :—

Particulars of Receipts.				Particulars of Payments.			
	£	s.	d.		£	s.	d.
150,000 Preference Shares, 15/- ....	112500	0	0	Cash portion of purchase .....	175000	0	0
75,000 Ordinary Shares, 20/- ....	75000	0	0	Freehold Property On account of Plant and Buildings...	5000	0	0
79½% First Mort- gage Debentures of £50 each ....	39650	0	0		16000	0	0
	227150	0	0		196000	0	0

Presented for filing by *Edward Edwardes,*  
19 Milk Street, Walbrook E.C.

**Form 43 (continued).**

The following is an account (or estimate) of the Preliminary Expenses of the Company.

*The whole of the expenses of promotion and formation of the company were defrayed by the vendor syndicate up to the stage of going to allotment, as provided in the prospectus dated April 1st, 1911.*

(d) Names, Addresses and Descriptions of the Directors, Auditors (if any), Manager (if any), and Secretary of the Company.

DIRECTORS.

Surname.	Christian Name.	Address.	Description.
Kingsley (Chairman)	Charles A.	Bewdley Court, Shrewsbury,	Banker, J.P.
Headingley,	Robert	Salop Powertown Manor, King's Lynn,	Peer of the
Viscount	Byrnes	Norfolk	Realm
Stopall	Chesneigh	Clevedon House, Harrow, Middlesex	Major- General, C.B.
Tupper	Martin	Capel House, Throgmorton St. London, E.C.	Alderman, J.P.
Goodenough	James W.	19 Mayfair Row, Hyde Park, London, W.	Baronet

**Form 43 (continued).**

Surname.	Christian Name.	Address.	Description.
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**AUDITORS.**

Double Entry	& Company	194 Bucklersbury, London, E.C.	Chartered Accountants
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**MANAGER.**

Snodgrass	Tupman	Winkleton, Leamington	Colliery Manager
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**SECRETARY.**

Edwardes	Edward	19 Milk St., Walbrook, E.C.	Chartered Secretary
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(e) Particulars of any Contract the modification of which is to be submitted to the Meeting for its approval, together with the particulars of the modification or proposed modification.

Clause 2 of the Agreement, dated April 1st, 19.., with the vendors, has been modified to the extent of substituting for the sum therein given as the cash consideration to the amount of £25,000, 25,000 Ordinary shares fully paid, the cash consideration to be £175,000 instead of £200,000, the said shares to be allotted to the vendors or their nominees. This modification forms the subject of a subsequent agreement dated April 10th, 19..

The agreement between Tupman Snodgrass and the Company dated April 1st, 19.., wherein the former was engaged as General Manager for the period of three years, has been cancelled, a subsequent agreement having been signed engaging the said Tupman Snodgrass for the period of five years.

**Form 43** (*continued*).

WE hereby certify this Report. .

*Chas. A. Kingsley,* } Two  
*Headingley,* } Directors

WE hereby certify that so much of this Report as relates to the shares allotted by the Company and to the Cash received in respect of such shares and to the receipts and payments of the Company on Capital Account is correct.

*Double Entry and Co.* } Auditors.

Dated the 18<sup>th</sup> day of September, 19...

## Sub-section (2) :—

At least seven days before the date of the meeting, the Directors to forward a report to every member. A draft of such report is furnished on pages 129, 132, and none of the information shown in this specimen or other matter of a like nature must be omitted.

## Sub-section (3) :—

Gives details of all information to be contained in the report. A close study of the specimen reproduced is recommended. The manner in which this form is filled in should be adhered to.

## Sub-section (4) :—

Provides that, if any auditors to the Company are appointed, they are to certify the particulars given in the report as to cash receipts and payments to be correct.

## Sub-section (5) :—

Directs that a copy of the report as certified by the auditors and signed by the Directors shall be filed with the Registrar of Joint-Stock Companies, after sending the report to the members.

## Sub-section (6) :—

Provides for the production of a list, giving the names, addresses and descriptions and holdings of the members, at the meeting and before the commencement thereof, and that the list shall be accessible to any member during the continuance of the meeting.

## Sub-section (7) :—

Gives the members present at the meeting the right to discuss any matter bearing on the subject of the Company's formation, or any matter contained in the report, and does not require a member to give notice of his intention so to discuss any such matter. No resolution may, however, be brought before the meeting without due notice being given, which notice must be in compliance with the Company's regulations as to resolutions.

## Sub-section (8) :—

Allows the meeting to stand adjourned from time to time, and at any adjournment thereof a resolution may be put of which proper notice has been given according to the Articles of Association. An adjourned meeting to have the same powers as the original meeting.

Sub-section (9) :—

Permits any shareholder to petition the Court, if default is made in filing the report or calling the meeting, to wind up the Company or to give directions for the filing of the report and calling a meeting. This petition may not be made until after the expiration of fourteen days from the date upon which the Statutory Meeting should have been held. The Court may direct the persons responsible for the report to pay the cost of any such petition.

Subsection (10) :—

Gives private Companies exemption as to forwarding and filing the report, but they must hold a meeting.

This important section of the Act of 1908 must be very carefully observed by the officials of all newly incorporated Companies. A careful inspection of the required form of report produced on pages 129 to 132 will enable the Secretary to see in what manner he should proceed. It will, obviously, be necessary that all cash entries in the general cash book shall be made and posted into their proper accounts in the ledger in order that the Auditors may properly investigate the pecuniary side of the question ; all vouchers for capital expenditure should also be forthcoming and the precise nature of all expenses in connection with the formation of the Company properly noted, in chronological order of payment.

Clause 45 of the revised Table A provides for the observance of this section relating to the Statutory Meeting ; and most Articles of Association contain this clause.

The list of members required to be produced [subsec. (6) of the section just referred to] is prepared on official forms to be obtained at any law stationers.

Meetings held subsequently to the Statutory Meeting, unless they are adjournments of the Statutory Meeting, are known as " Ordinary " General meetings, sometimes termed " Annual " General meetings. At these meetings, the shareholders are called together to receive a report of the Company's financial position, prepared by the Directors, also to elect Directors in the place of those retiring by rotation, to elect Auditors, and, generally, to review and discuss the affairs and prospects of the business. There is also a class of meeting known as an Extraordinary General Meeting. Such meetings are only called for a particular purpose, such as to pass a Special Resolution, a definition of which we shall

give later, or to place any important project before the members of the Company upon which the Directors may desire the views of the shareholders generally. Whatever or whenever the meeting happens to be, only business of which notice has been given in the notice convening it can be discussed or decided upon.

As to when, or how often, a General Meeting of a Company is to be held will largely depend upon the Articles of Association of that Company, though, by the law as at present constituted, a meeting must be held once at least in every year, and at intervals of not more than fifteen months. There is a penalty of fifty pounds against every officer of the Company for the neglect of this requirement. [Act 1908, sec. 64 (1).]

Form 44.

*General Meeting Notices*

THE CONSOLIDATED LOAMSHIRE COLLIERIES CO., LTD.

NOTICE OF STATUTORY MEETING.

NOTICE is hereby given that, in compliance with the Companies (Consolidation) Act, 1908, sec. 65, the Statutory Meeting of the Company will be held at the Whitehall Rooms, Palace Street, Westminster, London, S.W., on Tuesday, October the 15th, 19.., at three o'clock in the afternoon.

A copy of the Report required to be sent to the members by the above named section accompanies this notice.

By order of the Board,

Edward Edwardes,

Secretary.

19 Milk Street,  
Walbrook,  
London, E.C.

October 1st, 19...

**Form 45.**

**THE CONSOLIDATED LOAMSHIRE COLLIERIES CO., LTD.**

**NOTICE OF ORDINARY GENERAL MEETING.**

NOTICE is hereby given that the Third Ordinary General Meeting of the Company will be held at the Whitehall Rooms, Palace Street, Westminster, London, S.W., on Wednesday, October 16th, 19.., at three o'clock in the afternoon, for the purpose of passing the Directors' Reports and Accounts, to elect Directors and Auditors, to declare Dividends; and for the ordinary business of the Company.

By order of the Board,  
Edward Edwardes,  
Secretary.

19 Milk Street,  
Walbrook,  
London, E.C.  
October 1st, 19..

**Form 46. Extraordinary General Meeting Notices**

**THE CONSOLIDATED LOAMSHIRE COLLIERIES CO., LTD.**

**NOTICE OF EXTRAORDINARY GENERAL MEETING.**

NOTICE is hereby given that an Extraordinary General Meeting of the Shareholders of this Company will be held at the Whitehall Rooms, Palace Street, Westminster, London, S.W., on Monday, October 30th, 19.. at 2.30 o'clock in the afternoon, when the following Extraordinary Resolution will be submitted:—

“That the following shall be substituted for clause 70 in the Articles of Association of the Company.

“The qualification of a director shall be the holding of at least 1,000 Ordinary Shares in the Company, and it shall be his duty to comply with the provisions of section 73 of the Companies (Consolidation) Act, 1908.”

If the above-named resolution is passed by the requisite majority it will be submitted for confirmation as a special resolution to a second Extraordinary General Meeting which will be hereafter convened in the manner prescribed.

By order of the Board,  
Edward Edwardes,  
Secretary.

19 Milk Street,  
Walbrook,  
London, E.C.  
October 20th. 19..



Clause 46 of the revised Table A gives an excellent illustration of what one generally finds in most of the Articles of Association as now framed by the majority of newly incorporated Companies. This important point is dealt with in this clause in the following way: "A General Meeting shall be held once in every year at such time and place as may be prescribed by the Company in General Meeting, or, in default, at such time in the month following that in which the anniversary of the Company's incorporation occurs and at such place as the Directors shall appoint. In default of a General Meeting being so held, a General Meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the Directors." The next clause directs that all meetings so held shall be known as "ordinary meetings: all other meetings are to be termed "extraordinary."

Section 66 of the Companies Act, 1908, imposes conditions which set aside the provisions of any Articles of Association. The main object of the section is to provide for the convening of an extraordinary general meeting whenever required by such members of the Company holding in the aggregate not less than one-tenth of the issued capital and upon whose shares all calls have been paid. A requisition so made must state the objects for which the meeting is to be called and be signed by each of the requisitionists or the requisition may be divided into several documents, all of which must be drawn in the same tenor and signed by one or more of the members desiring the meeting. The requisition, or the documents constituting it, must further be deposited at the office of the Company. If the meeting be not called within the space of twenty-one days, a majority in value of the requisitionists may themselves call the meeting, but any meeting so called must be held not more than three months from the date of depositing the requisition. All meetings called as provided for in section 66 are to be called "as nearly as possible" in the same manner as those convened by the Directors and in the manner prescribed by the Company's regulations. It would not be competent for the Secretary to call a meeting upon receipt of the requisition. It is indeed an open point whether the shareholders signing the petition to call the meeting could employ him to that end after the lapse of the prescribed twenty-one days, if the Directors have failed to comply. It has,

however, been decided that, where a Secretary did call a meeting, the Directors could ratify such a notice before the holding of the meeting. Such a ratification would have to be made by the Board of Directors or a majority of them; it would not be valid if made by individual members of their body.

Notices of all meetings of shareholders must be made in the manner prescribed in the Articles. Specimen notices are given on pp. 135-6. At present, the statutes require that "seven days' notice" must be given of all such meetings. For the true interpretation of the term "seven days" we must turn to the Articles. If we find no definition, the seven days must be taken to be exclusive of the day of the meeting and the day of despatching the notice. A notice to be valid must, therefore, be sent at least nine days prior to the date of the meeting. The notice must also state in detail the business it is proposed to transact and, if any Special Resolution is to be put to the meeting for adoption, the full text of the Resolution must be given therein, as well as in notices which convene meetings called for the purpose of confirming or finally passing the Special Resolution. Special clauses will be found in the Articles of Association as to the form of notice to be given, whether the notice is to be actually sent to each member of the Company at his address in the Register of Members, or by advertisement in certain specified newspapers, or both. In all probability, the former is the method to be pursued, though it is frequently required that the notice so sent to each member in a prepaid letter must be supplemented by an advertisement in some newspaper, generally a financial paper. This announcement would also contain a notice with regard to the subject of the closing of the Share Registers for the purpose of making up the books for dividend. We have already dealt with this question. A meeting of which notice has once been given, must be held: if it is sought to adjourn any meeting, the adjournment can only be given effect to at the meeting originally called, although no other business is transacted at that meeting.

No business can be transacted at a meeting unless a sufficient number be present to constitute a quorum. As to what number of members is required to constitute a quorum will depend upon the requirements of the Articles. In clause 51 of the revised Table A, three members present are sufficient. This is the number generally quoted, but, if no quorum is stated in the regulations of

the Company, then a majority of the shareholders being present would enable the business of the meeting to be proceeded with, and this majority of shareholders would be quite irrespective of value in holdings. A further provision is generally inserted to the effect that, if within a certain specified time, say half-an-hour from the time when the meeting has been announced to commence, a sufficient number is not present to form the quorum, the meeting will stand adjourned: provision will in all probability be also made as to the date when the adjourned meeting is to be held and whether the members are entitled to further notice of any adjournment of a meeting. The new Table A goes so far, and quite reasonably so too, as to set out that if, at any adjournment, it is found impossible to form a quorum, then the members present shall, at the expiration of the specified time, proceed with, transact, and determine upon the business for which the original meeting was convened.

The business of the meeting will be presided over by the Chairman of the Board of Directors, and this will be so at every general meeting of the Company, but the Articles of Association will contain some authority to cope with the possibility of the recognised Chairman's unwillingness to act at any particular meeting, as, for example, at a meeting called at the request of only a section of the shareholders. In such a contingency, the members present will be empowered by the regulations to elect from among their number a member to act in the stead of the Chairman of the Board. It is also usual to find in most Articles a clause that, if the Chairman has not presented himself at the meeting within fifteen minutes from the hour when the meeting was announced to commence and a quorum is present, the meeting may elect a Chairman from those present, and the business transacted, if carried out in the manner otherwise provided for in the Company's regulations, would be perfectly valid.

The Chairman may, if the Articles admit of it, adjourn any meeting by the consent of the meeting, a quorum being present, from time to time and to any other place, but it may be necessary to give the shareholders notice of any such adjournment if the adjourned meeting is to be held more than ten days after the decision to adjourn. No business can be transacted at any such adjournment other than that for which the original meeting was called.

The manner in which business is disposed of at shareholders

POLLING LIST

RE RESOLUTION TO WIND UP VOLUNTARILY, OCT. 31ST, 19...

Member's Name (Signature)	Folio in Register of Members	Voting as Proxy or	No. of Proxy Members	Folio in Register of Members	FOR the Resolution. Votes.	AGAINST the Resolution. Votes.	Remarks.
Nash Edward T.	69	—	—	—	500	—	
Morris Andrew ..	86	—	—	—	—	400	
Hallfield Wm. C. ..	418	Georgina Hosier	51	343	100	—	
Mason Alfred ..	231	Agnes Oliver ..	19	178	—	350	
etc.		etc.					

meetings by means of voting is very fully dealt with both in the old and the new Table A. Clause 56 of the latter states that "At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded in case the resolution be proposed as a special or extraordinary resolution by at least five members, or in any other case by at least two members; and, unless a poll is so demanded, a declaration by the Chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of proceedings of the Company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution." This illustrates very usefully and concisely the procedure which is required to be followed. It will be noted that a demand for a poll to be effectual must be made immediately upon the declaration by the Chairman of the result of a show of hands; but where a Chairman tries to preclude the possibility of a poll being demanded by immediately passing on to the next item on the agenda paper, a demand then made to put the resolution to a poll would prove effectual and could not be disregarded by the Chairman.

When a poll has to be taken, it is to be done in such manner as the Chairman directs. On page 140, we produce a form of polling list which it will be found most convenient to use, and the Secretary should never be without a quantity of foolscap sheets of paper at every shareholders' meeting ruled up in the manner given. If a large number of members are present, it will be found very convenient, and will very greatly expedite matters, to have two or three responsible clerks present, each in charge of a list at different parts of the Chairman's table. Even the most flourishing Companies occasionally bring debatable resolutions before their shareholders, when polls are demanded in the most unexpected manner, and such a contingency must at all times be fully provided for. It is possible that scrutingers may be appointed by both sides of the voting factions to investigate the correctness of the voters' lists: every facility must be given them readily to verify the correct amount of shares, assuming that each share will carry one or more votes, standing against each voter's signature or the signature of a member holding a proxy for another.

*Specimen of Proxy*

THE CONSOLIDATED LOAMSHIRE COLLIERIES CO., LTD.

PROXY.

Ordinary General Meeting, 19th October, 19...

I, *Erasmus Drewhurst*, of 49 *Okehampton Drive, Copplethorne, M.D.*, a member of the above-named Company, and entitled to 1500 (*one thousand five hundred*) Votes, hereby appoint *Sir Augustus Bellamy*, of 91 *Mayfair Crescent, London, W.*, Knight, or, failing him, *James William Chesney*, of 4 *Baron's Court Avenue, Hampstead, London, N.W.*, Stockbroker, as my Proxy or Proxies, to vote for me and on my behalf at the Ordinary General Meeting of the Company to be held on the Nineteenth day of ~~October~~, One thousand nine hundred and — and at any adjournment of such meeting.

As Witness my hand this *twelfth* day of *October*, One thousand nine hundred and —

Witness :

Signature *Geo. W. Blockhall*,

*at. Stamp.*

Address *1 High St.,  
Copplethorne.*

*Erasmus Drewhurst.*

Description *Doctor of Medicine.*

NOTE.—This Proxy is not available for any other meeting than that named hereon or any adjournment thereof. The Proxy must bear a penny stamp which must be signed across by the persons making the Proxy.

A separate show of hands, or poll, must be made for every resolution put to the meeting; it is not permissible to pass a series of resolutions by one show of hands, or by one poll.

The Chairman is to declare the result of a poll so soon as the number of votes on the voting lists has been counted and passed by the scrutineers, if any.

In the case of an equality of votes, whether as a result of a show of hands or of a poll, the Chairman of the meeting is entitled to a casting vote if the Articles so provide.

The voting power of members will be defined in the Articles of Association. Where a resolution is put to the meeting for a decision by means of a show of hands, each member will be entitled to one vote, but, if a poll is demanded, the voting power will depend upon the number of shares held by the members polling. The revised Table A and most special Articles entitle members to one vote for each share, though it is not uncommonly found that certain classes of shares, as, for instance, founders' shares, or deferred shares, carry as many as ten votes per share.

A shareholder who has not paid his calls on any shares held by him at the date of the meeting, or if he is in any other way indebted to the Company, is usually prohibited from recording a vote even upon such other shares as he may have in his name as fully paid.

Voting by proxy is provided for in the Articles of Association of practically all Companies. Both the new and the old Table A give the form in which proxy forms are to be prepared. Such a form would also most certainly be found in all special Articles. But, if a Company's regulations should not provide for this method of voting, absent members cannot make any claim to appoint another shareholder to record their votes.

On page 142, we reproduce the usual form of instrument employed for the purpose of appointing a shareholder as a proxy for an absentee. The Directors are generally empowered in the Company's regulations to determine what manner of form shall be used, provided that it does not depart in any essential particular from the form which will be prescribed by those regulations. The form given in the new Table A does not require attestation by a witness; this is, however, almost invariably required in special Articles.

By virtue of section 80 of The Stamp Act, 1891, an instrument of

proxy is required to bear a penny stamp, which may be an adhesive one, but, if adhesive, it must be affixed and be signed across by the person giving the proxy. The section further requires that the proxy so stamped shall be available for use at only one meeting or at any adjournment of that meeting. If a proxy be given for a number of meetings, it will require a ten-shilling stamp. By subsection (3), a penalty of £50 is imposed where any form of proxy is used not bearing the requisite amount of duty, and, further, the proxy is invalid. The penalty will fall upon the person who makes the instrument of proxy and also upon the person appointed to vote, if he uses, or attempts to use, the proxy form for the purpose of voting. This might be cited as an isolated instance where the penalty does not rest with the Company or upon any of its officials.

All forms of proxy are to be lodged with the Secretary at the registered offices of the Company forty-eight hours before the date of the meeting, unless the Articles specify for a longer or shorter period: forty-eight hours is the time given by the revised Table A. If not deposited at the prescribed time, the instrument is invalid, though it will be the duty of the Chairman of the meeting to discard it, and to announce its invalidity, and the cause.

Corporations giving a proxy must affix their seal to the instrument, or the form must be signed by some person having due authority to give the proxy on the Corporation's behalf, such as a Power of Attorney. Until recently, it has not been the general custom for special Articles to provide for the representation of Companies or similar bodies, at the meetings of the Company in which they hold shares. [Act 1908, sec. 68.] The wording of this section slightly alters the one in the Act of 1907, which first introduced this measure. It is now necessary for the Directors to pass a resolution appointing a person as the Company's proxy.

It will be the duty of the Secretary to examine fully each of the proxies sent in, and he must report to the Directors upon anything which may appear to be irregular in regard to them. He must be careful to see that they conform in all respects to the regulations laid down in the Company's Articles of Association, and, also, that they bear the proper stamp over which the signature of the shareholder giving the proxy must appear. If it does not appear across the stamp, it will be sufficient to obliterate the stamp itself with some



## LISTS OF PROXIES RECEIVED

## ALPHABETICALLY ARRANGED UNDER THE NAMES OF THE PROXY HOLDERS

No. of Proxy.	Name of Member to whom Proxy is given.	Name of Member giving Proxy.	Register Folios.		No. of Votes.	Remarks.
			Holder.	Giver.		
49	Egerton, Capt. Archd.	Jansen, Miss Miriam	181	305	50	
107	Do.	Jansen, Miss Nora G.	181	306	50	
93	Eggington, Manuel D.	Crawley, David J.	58	171	150	
19	Do.	Maxwell, Chas.	58	416	400	
31	Do.	Randall, Mrs. Lucy	58	78	500	
57	Egor, James H.	Smith, Clarence W.	210	98	120	

indelible mark to cancel it, as in the case of a receipt. A proxy received without a stamp should be rejected and returned to the shareholder.

In an important case (*in re Peel v. London and North Western Railway Co.* [1906], W.N. 208) it has been judicially decided that Directors may employ the funds of the Company for the purpose of stamping proxy forms made out in the name of one of their number and also for stamping the envelopes sent with the form, for the object of returning it to them when completed. It would probably be decided otherwise, if it could be shown that the Directors in so acting were not prompted by the best intentions.

No person may be appointed as a proxy who cannot exercise the right to vote on his own behalf, except in cases where the Articles permit of any other person being appointed, though this is extremely rare. It would be sufficient if the person appointed acquired his rights as a member of the Company prior to the holding of the meeting, whether he was a member of the Company at the time of the execution of the instrument of proxy or not. It is necessary that the person appointed should be definitely named: for instance a proxy purporting to give the power to vote to "The Chairman" should on no account be accepted.

It will be seen that there will be an interval of only two days between the closing of the list and the time of holding the meeting. If, therefore, a large number of proxies have been received, it will not be a light matter to deal with them in so short a time, with a view to their being so arranged as to be readily get-at-able. As soon as the proxies arrive and are found to be in order, they should be serially numbered in the top left-hand corner; a rough form of index book should then be obtained and, into it, both the names of the persons appointed, and those of the shareholders giving the proxies, must be entered, as shown upon the specimen on page 145. This plan will be found very useful in many ways, especially where one shareholder is appointed proxy by a number of his fellow-shareholders. In such a case, an extra amount of space would be allocated to his name, when the number of votes he will thus wield will be easily and quickly arrived at. It is, perhaps, unnecessary to add that the entries should be very carefully checked before the meeting, if not by the Secretary himself, then by one of his trusted assistants. When completed, it will be a simple matter, should the necessity arise at the meeting, through the demand for a poll, to refer

quickly to the indexed names and accurately ascertain the number of votes standing against such shareholder holding proxies, and at the same time to those persons giving them.

The forms of proxy should be sent out with the notice or report dealing with the meeting at which they are to be used, and full instructions must be embodied in the notice or report as to the manner in which they are to be dealt with. These instructions ought also to be printed at the foot of the form itself, as is done in the specimen we give. When completed and passed as correct, it is not necessary that the proxy forms should be produced at the meeting, though, if not too numerous, it would perhaps be advisable that they should be, and, if arranged numerically, as directed, any form would be easily obtainable, if challenged. Further, scrutineers, if any are appointed, would desire to examine them.

The practice of requiring members to sign an attendance list upon entering the meeting hall cannot be too strongly deprecated, at any rate where large numbers of shareholders attend. The Secretary will in all probability not find, no matter how prosperous his Company may be, any very large proportion of the shareholders sufficiently apathetic or indifferent to absent themselves from the members' gatherings. The method of sending each shareholder a form of admission card with the notice of the meeting is much the better plan, as, if a list has to be signed, the inevitable consequence will be a choking of the entrance. The card need not exceed the size of the regulation limit of a post card, and would take the following form:—

Form 50.

<p>THE BLOWUP GUNPOWDER COMPANY, LIMITED.</p> <p><i>Annual Meeting of Shareholders,</i></p> <p><i>to be held at</i></p> <p><i>Winchester Cottage, Narrow Street, E.C.</i></p> <p><i>(room 14), ground floor, on Friday, April</i></p> <p><i>1st, 19...</i></p> <p style="text-align: right; margin-top: 20px;">-----</p> <p style="text-align: right;"><i>Member.</i></p>	<p>No.</p>
---	------------

This card must be signed by the member before admission to the meeting.

The space at the top on the right would bear the member's number in the Register of Members or List of Members. This Register will be kept near at hand for instant reference.

We have reproduced below a model of an agenda drawn up for the purpose of conducting a General Meeting of a Company, following which appear the minutes of that meeting founded on the agenda paper.

### Form 51.

#### THE CONSOLIDATED LOAMSHIRE COLLIERIES COMPANY, LTD.

SECOND GENERAL MEETING AT WHITEHALL ROOMS, WESTMINSTER, S.W.,  
On Tuesday, October 26th, 19... at 3 o'clock.

#### AGENDA.

1. Call on Secretary to read the notice convening the meeting.
2. Minutes of last General Meeting to be read, or, if agreed, to be taken as read.
3. Ask the meeting whether the Directors' Report and Accounts as printed and submitted shall be taken as read.
4. Call on Secretary to read the Auditor's Report.
5. Chairman to make statement of the Company's position and general prospects, and:—
  - i. "Move that the Report and Accounts as audited and certified by the Company's Auditors, now before the meeting, showing the position of the Company's affairs as at 31st August, 19..., be approved and adopted."
  - ii. Call on Captain Middleton to second the motion.
  - iii. Ascertain whether the shareholders have any points to discuss arising out of the motion.
  - iv. Reply to any questions. Put the motion to the meeting and declare the result.
6. Sir David Hannay will move:—
 

"That Colonel William Beauchamp, M.P., be elected a Director of the Company in the room of Mr. Jabez Wright, the retiring Director."

Call on Dr. Spencer to second the motion.  
Put motion to the meeting and declare result.
7. The Chairman will move:—
 

"That the dividends recommended to be paid by the Directors in their Annual Report, namely 10 % on the Ordinary Shares and 12½ % on the Deferred Ordinary Shares for the year be approved. The Dividends to be paid to such persons as appear on the Register of Members at the closing of the books on the 19th inst."

Call on Mr. Jabez Wright to second the motion.  
Put motion to the meeting and declare result.  
Invite a shareholder to move:—
 

"That Messrs. Double Entry & Co., Chartered Accountants, be re-elected as the Auditors of the Company, and that their remuneration therefor be £175 (one hundred and seventy-five pounds)."

Call upon another shareholder to second the motion.  
Put motion to the meeting and declare result.  
Declare proceedings to be at an end.

Minutes to be prepared from the foregoing agenda :—

**Form 52.**

*The Second General Meeting of the Company was held on Tuesday, October 26th, 19... at 3 o'clock p.m., at the Whitehall Rooms, Palace Street, Westminster, S.W.*

*Mr. Jeremiah Oldfield in the chair.*

*Present—(Here record names of shareholders present.)*

1. *The notice convening the Meeting was read.*
2. *The Minutes of the last meeting were read, approved, and signed.*
3. *The Directors' Report and Accounts, duly certified by the Company's Auditors, were taken as read.*
4. *The report of the Auditors was read.*
5. *It was proposed by the Chairman, Seconded by Captain J. R. Middleton, and unanimously*  
RESOLVED "That the Report and Accounts, as audited and certified by the Company's Auditors, now before the meeting, showing the position of the Company's affairs as on the 31st August, 19... be approved and adopted."
6. *Sir David Hannay, Bart., proposed, and Dr. J. H. Spencer seconded, and it was*  
RESOLVED *nem. con.* "That Colonel William Beauchamp, M.P., be elected a Director of the Company in the room of Mr. Jabez Wright, the retiring Director."
7. *The Chairman proposed, Mr. Jabez Wright seconded, and it was*  
RESOLVED "That the dividends recommended to be paid by the Directors in their Annual Report, namely 10% on the Ordinary Shares and 12½% on the Deferred Ordinary Shares for the year be approved. The dividends to be paid to such persons as appear on the Register of Members on the closing of the books on the 19th inst."
8. *It was proposed by Mr. William McIntosh, seconded by Mr. Henry Barclay, and*  
RESOLVED "That Messrs. Double Entry & Co., Chartered Accountants, be re-elected as the Auditors of the Company, and that their remuneration therefor be £175 (one hundred and ~~seventy-five~~ pounds)."
9. *The meeting terminated with a cordial vote of thanks to the Board, moved by Mr. James Hynes, seconded by Mr. Alfred Mathews, the Chairman suitably responding.*

(Signed) J. Oldfield,  
Chairman.

## CHAPTER. XIX

### REPORTS

AMONG the most arduous duties which fall to the lot of the Company secretary is that of drafting various reports for consideration by the Board or Committees thereof. We have dealt with one class of report in the last chapter, which, owing to its being framed upon statutory provisions throughout presents, perhaps, less trouble in itself, than the report which crops up for attention every year—the annual report of the Directors, mentioned in the preceding pages. This report is one which demands the most mature and searching consideration; whether the Company enjoys the fruits and satisfaction of prosperity, and of easy and steady progress; or, on the other hand, where it suffers under the burden of competition, bad trade, or other adverse conditions, it is incumbent on the drafter of this momentous document to exercise the utmost skill in conveying just the right sort and amount of information without giving one iota too much. This is a desideratum to be rigorously kept in view. The phraseology employed must be of the simplest description; entirely free from the least suspicion of ambiguity; lucid, terse, yet succinct in arrangement, conveying without any sense of doubt or hesitation the information it is intended to convey. It must be precise in purpose and concise in arrangement. These general principles apply to all reports, whether statutory or non-statutory; they apply with equal force to reports of Committees to the Board, reports of auditors, or of liquidators.

Clauses 106 to 108 of Table A deal with the usual requirements laid upon Directors for providing the shareholders at their annual meeting with a report to accompany the balance sheet, a copy of both having to be laid upon the table at the general meeting in addition to copies being sent seven days before that meeting to every person so entitled. The report is to contain a general statement of the Company's affairs and prospects and also of any proposals as to payment of dividends or other appropriation of profits;

or, on the other hand, some reference as to the causes or explanation of losses sustained.

The annual report will always contain some opening paragraph (i) which deals with the general condition of affairs, more or less in the abstract, with a reference either of satisfaction or regret, as the case may be, as to general results achieved. This should be followed by (ii) some statement as to future policy to be pursued, and details of any changes in the conditions of trade, local or otherwise, which have supervened, with some account of what proposals are to be adopted to meet them; such as additional workshops, new warehouses, increased sales arrangements or suchlike; (iii) information relating to any alteration in the share capital of the Company, or that borrowing powers have been, or are to be, exercised; proposals as to increase of capital, etc.; (iv) a statement as to the customary retirement by rotation of the Directors or of any changes in the constitution of the Board which have taken place since the last meeting; (v) a reference to election of auditors and to their report on the accounts; (vi) any necessary details as to the accounts as published, with proposals of the Board for payment of dividends, reserves or other appropriations of the profit and loss account.

The Directors' annual report is usually prepared in such a way as to embrace the notice convening the meeting, the report itself, and the balance sheet with the auditors' report attached to it. The annual report is sometimes signed by the Chairman of the Company and by the Secretary, or, it may be merely signed by the latter, after the usual inscription "By order of the Board." In some cases the report is signed by the same Directors who attach their signatures to the balance sheet (*q.v.*). The Board must decide which of the three methods to adopt.

A report such as we have dealt with should be, according to circumstances, drafted as shown on page 152.

Reports may be said to be in the main of two kinds (*a*) those required by the statutes of which the one given above is an example (see clause 107 Table "A"),—another will be found on pages 129, 132,—which represents the Statutory Report; and (*b*) reports of committees, agents, engineers, valuers, etc., arising in the ordinary course of business. A well organised company will be provided with periodical reports from all its heads of departments, branches,

## FABER, FOSTER &amp; CO., LTD.

## DIRECTORS :

*Sir William H. Foster, Bart., Chairman.*  
*Lord George Murray.* *Colonel Sir Francis Randel, K.C.B.*  
*Conway G. Hutchinson.* *Timothy Flower.*  
*Rupert Sainsbury.* *Augustus Webberley*  
*Captain H. G. Neville, R.N.* *Thomas Briggs.*  
*Percival Burgess, Secretary.*

## SEVENTH ANNUAL REPORT OF THE BOARD.

The Directors have much pleasure in again presenting to the shareholders another and more satisfactory report than hitherto. The profits given on the accounts annexed to this report show a greater increase than in any former year. This has been brought about to a considerable extent by the removal of the workshops to Dartford, the estimated saving in cost of production having been fully realised, whilst cost of transport is appreciably less. A considerable increase in business has been brought in from the new branches in Calcutta and Cape Town. The latter establishment opened only in the early months of last year has already secured important government contracts.

The directors contemplate, and will shortly put in hand, a scheme for the thorough reorganisation of their factories on the Mersey where it is hoped considerable economies can be effected. Since these workshops were acquired from The Lancashire Ironworks, Co., Ltd., a good increase in output has resulted. It is the intention of the board to instal the same arrangements there which are now carried out at Dartford.

In view of the capital outlay involved in the erection of the Dartford works and wharves, the prospective improvements on the Mersey, and the erection of buildings in Cape Town, the board will shortly offer to the shareholders for subscription "pari passu" the remaining unissued £20,000 5% £1 Preference shares, at par. Prospectuses are already in preparation and will be issued on the 5th prox.

With profound regret the directors have to record the retirement of Sir Francis Faber from the board, through continued ill health. The board have elected Captain Neville to the vacancy, and his election will require the sanction of members at the general meeting.

Colonel Sir Francis Randel and Messrs. Rupert Sainsbury and Thomas Briggs retire from the board by rotation, and, being eligible, offer themselves for re election.

The auditors, Messrs. Check, Tick & Co., of 1758 Salisbury Chambers, Princes Street, E.C., Chartered Accountants, retire, and being eligible, offer themselves for re-election. Their report on the Balance Sheet and Accounts is appended.

The net profit shown on the profit and loss account attached is £25,618 10s. 11d., an increase of £3,154 14s. 1d., as against last year. With the amount brought forward from last year's account the amount available for distribution is £29,168 15s. 10d. The dividend of 5% on the Preference Shares has already been paid on the 1st July and the 1st January amounting to £7,500 in all. The net distributable balance is therefore £21,668 15s. 10d., which the board propose to allocate as follows :—

To pay 5% on the ordinary shares (making 10% p.a. with the 5% paid as interim in July last)	£12500	0
To Transfer to General Reserve (making £18,000)	£3000	0
To create an Equalisation of Dividends Reserve	£3000	0
Leaving balance to be carried forward to next year	£3168	10
	£21668	15 10

19 Cambridge Chambers,  
 Bucklersbury, E.C.  
 February 10th, 19..

By order of the Board,  
 PERCIVAL BURGESS,  
 Secretary.



etc. Such reports invariably appear in the form of statistics accompanied by observations and conclusions of those responsible in regard to any especial features, which call for comment, or any recommendations which may be necessary for the guidance, consideration or advice of the Board.

The construction of a report, say of a special Committee appointed by the Board for the investigation of any particular business, requires very careful analysis and preparation, and very close thought should be devoted to the task. As we pointed out in the chapter on Committees there are a great variety of matters which are commonly left to the investigation of delegated bodies of Directors. For an example we will take the frequent case of expansion of business premises, allied perhaps to the question of increase of capital. The Board will pass a resolution appointing a certain number of its members specified in the resolution " (1) to investigate the report submitted to the Board by the Branch manager at Bakewell as to inadequate accommodation and machinery and the amount of overdue work on hand; (2) if satisfied that the manager's view of the position is justified, to consider what steps should be taken to enlarge and further equip the factory, estimate the cost entailed; and (3) to confer with the Company's auditors and solicitors as to the best means of raising additional capital to meet the outlay entailed under the adoption of any recommendations arising out of (2)."

The Committee having been thus constituted and charged with its duty, it will be the secretary's duty to be present at all conferences, meetings, investigations, etc., in order to take full notes of everything which transpires. When the business has concluded, the necessary material for the report must be collected and the mass of evidence conveniently arranged under separate heads, whilst due regard must be paid as to the exclusion of any matter which is of insufficient importance, or of no weight in the consideration; on the other hand, great care must be exercised in seeing that no material points are overlooked. The report in consequence of the reference above would be divided under the same three divisions: (1) as to the manager's report; (2) as to the Committee's recommendations for expansions; and (3) as to suggested increase of capital. Each of the three sections of the report will be self-contained in its subject matter as to investigations conducted,

findings, and recommendations. The report should be headed by the Company's name, after which should appear a reference to the Committee's functions by a full recital of the Board's minute covering the matter. The report must be signed by all members of the Committee, naming the Chairman, and by the Secretary.

**THE WAUKLITE BOOT COMPANY, LTD.**

*Report of Committee of Directors upon Extension of Factory and Additional Capital.*

The following Resolution of the Board was passed on Monday, March 1st. 19... :—

*"That a special Committee of the Board be appointed consisting of Messrs. Abel Abrahams as chairman, Benjamin Benwell and Claudius Cloud, and that the said Committee shall :—*

- " (1) Investigate the report submitted to the Board by the Branch manager at Bakewell as to inadequate accommodation and machinery and the amount of work overdue.*
- " (2) If satisfied that the manager's view of the position is justified to consider what steps should be taken to enlarge and further equip the factory and estimate the cost entailed.*
- " (3) To confer with the Company's auditors and solicitors as to the best means of raising additional capital to meet outlay entailed under the adoption of any recommendations arising out of (2), and, generally, to do any act or thing which the Board itself may do towards the furtherance of the objects within this reference, and to report to the Board."*

*The Committee report as follows :—*

**1.—AS TO THE MANAGER'S REPORT.**

Three meetings have been held at the factory at the last of which a representative of the auditors was present, the manager, and each of the four heads of departments as well as eight others of the administrative staff were interrogated.

The Committee finds that the view of the manager is well founded. At present the capacity for output amounts to only 75% of the demand from the branches, when the factory is working at its maximum limit for overtime : and it has been found impossible to arrange for a night-shift owing to the scarcity of skilled labour in the neighbourhood.

A close inspection of the factory accounts has been undertaken and an investigation of the volume of output over the four past years in relation to wages, material and expenses of upkeep has revealed the fact that the output has increased by about one per cent. per annum each year upon the year preceding, and that during those four years no addition or improvements, beyond repairs and bare renewals, has been made in the equipment, whilst the number of hands employed has been substantially the same throughout.

Consultation with the engineer completely endorses the manager's view as to floor space, and no further machines can be accommodated in the present building.

To meet the increasing orders £1,500 in completed jobs have been done in outside factories in the last three months and £3,560 in all during the year. At the present time some £1,850 in orders are overdue to the various branches.

**2.—AS TO SUGGESTED EXPANSION AND FURTHER EQUIPMENT.**

The Committee have held four consultations with Architects and Land Agents and have visited three firms supplying the type of machines at present in use in the trade generally.

Sites on both the north and east of the existing building have been inspected. It is recommended that the site to the north, equivalent to about 6,000 square feet, be obtained upon a building lease, the option of which has been secured at £25 for a period of 99 years.

Plans and specifications have been prepared for the erection of a building on the above site for the purpose of extending the old building (each floor 50 feet by 120 feet), demolishing the north wall of the existing structure. It is also proposed to construct a good wharf to the south wall adjoining the railway, and arrangements can be concluded for railway trucks to enter from a siding. The

**Form 54 (continued).**

estimated cost of the structural additions and alterations is £6,000. The whole could be completed within four months.

Exhaustive tests and demonstrations have been made with four designs of machines. The XY machine is in the opinion of the Committee the best for the Company's purpose, and it is recommended that twenty-four machines be installed at a cost of £156 each to include delivery and erection and motors for connection with the existing cables.

The Committee are of the opinion that ten machines in the old factory are inefficient in regard to output and could with advantage be replaced, when the suggested additions are in working order. It is recommended that these machines be scrapped and that XY machines be installed in their stead. Allowing for scrapping values it is estimated that the whole of the 34 machines could be purchased and placed in running order for £5,500. The work of the XY machine is 45% in advance of the machine now in use, as to output; whilst the article leaves the machine with less hand finishing required upon it.

**3.—AS TO INCREASE OF CAPITAL.**

On concluding the above recommendations the Committee held two meetings at which the solicitor and auditors were present.

Balance sheets of the past ten years have been closely scrutinised and the receipts and expenditure of capital for the same period have been investigated. The whole of the Company's authorised capital is issued and paid up, but up to the present the Board have not exercised its borrowing powers. In the past ten years £15,000 has been received from unissued share capital and £29,150 has been paid out in addition to buildings, machinery and plant. The Reserve fund in the same time having increased from £11,500 to £28,000. The quotations of both preference and ordinary shares have maintained a fairly average value for over ten years, despite the drop in most of the shares of similar industrial undertakings.

The Committee have fully considered the alternative proposals of the auditors and solicitor as to (1) an issue of debentures carrying a general charge and (2) an application for an increase of the nominal capital equally over preference and ordinary shares.

Having regard to the cost of carrying out the present proposals at Bakewell and to provide for future requirements, the Committee recommends that arrangements be made for increasing the authorised capital from £200,000 to £230,000 and that £7,500 preference and £7,500 ordinary shares be offered to the shareholders for subscription.

(Signed) Abel Abrahams, Chairman.  
Benjamin Benwell.  
Clausius Cloud.  
Rufus Redhead, Secretary.

March 28, 19...

## CHAPTER XX

### THE ACCOUNTS OF COMPANIES, AUDIT AND AUDITORS

SINCE it is the object of practically all Companies which are incorporated, to carry on business in some form or other for the purpose of gain, the subject of accounts is naturally one which we cannot ignore. Within the limited space at our command, it is, unfortunately, only possible to treat the matter of accounts in an abstract way, touching briefly upon the more outstanding features usually dealt with in most Articles of Association.

The Secretary to a limited liability concern is one whose knowledge of accounts in general must be of an extensive character. A mere knowledge of the principles of "double entry" will simply rank as the alphabet, as it were, in this all-important matter. He must be fully conversant with all possible questions likely to arise in connection with Capital and Revenue, Depreciation as applied to the particular plant or machinery of the trade in which he is engaged, Reserve and Sinking Funds, and above all, Cost Accounts. Indeed, he cannot be too careful not to lose the slightest opportunity to glean all possible data that may be obtained upon these all-important, everyday topics of his career. Every shareholders' meeting, every meeting of the Board or of Committees, every day of the office routine—all are surrounded by this all-pervading question of accounts. Every decision of the Directors has, as its object, the acquirement of profits. The successful handling of the Company's accounts may, therefore, be truly said to demand the Secretary's most ardent attention.

At the outset, it will be as well if we consider what is required by the Legislature from a Company in regard to accounts. The Companies Act, 1908, contains ample provision, however, as to the manner in which the accounts are to be audited. The *pro formâ* Articles contained in the new and the old Table A devote several clauses to this subject.

We shall invariably find that a Company is required by its Articles of Association to keep "a true account of the sums of money received and expended by the Company and the manner in which

such receipt and expenditure takes place; and "of the assets and liabilities of the Company."

So far, then, a Company's own regulations would cover the rough outlines of what will be required to be kept to exhibit, at certain specified times, its financial status. It will remain for the Directors to decide as to what form the general books of account shall take, and here an all-important point arises. More often than not, we find newly-formed Companies depending almost entirely upon the auditors when considering the formulation of the accounting system. This, perhaps, is the most natural course, but it most probably is generally overlooked that the auditors are not required to do anything further, from the point of view of the Articles, than to investigate the accounts on behalf of the shareholders. The accounts which they are required to investigate are the accounts required to be kept by the Directors. Nevertheless, it is highly desirable that the auditors should be consulted as to the general principles to be adopted in all material respects, as no one would be so well qualified to pass an opinion as a professional man.

A great deal will depend upon the Secretary's individuality at this juncture, and much will depend upon the knowledge he possesses of the general character of the business, in order that he may apply his skill to the application of accounts as a whole. The same fundamental rules hold good in respect to all businesses. He should, therefore, fully acquaint himself with all the technical points of the business as soon as possible, and obtain reliable information with regard to all matters relating to labour and the more important goods used as raw material, if his Company belongs to the manufacturing type. He should, therefore, endeavour to familiarise himself thoroughly with all the different stages through which a given article of produce passes before it is completed and is ready to be turned over to the sales department, to be placed upon the market. His aim should be so to classify the expenditure on material and labour that they both fall within the channels prescribed for each department of the factory, always having full regard to what may justly be considered as an expense on account of production on the one hand, or an expense in the direction of administration on the other. Full attention must be paid to the allocation of the cost of erecting the necessary buildings and plant where the concern is a new one, with a view to recording in the

books the exact amount of capital expended upon each department and to keeping future payments under their proper heads from time to time. At stock-taking periods, too, the greatest care must be observed to determine the amount of material on hand in each department, or it will be a difficult matter to ascertain what will be the precise consumption in material over a given period, arrived at by adding the purchases of that period to the stock on hand at the commencement and deducting the value of the stock at the close.

The personal ledgers must be so arranged upon a self-balancing principle, or to adjust themselves automatically, as to arrive readily at a Trial Balance within the smallest limit of time after the stock-taking period. Indeed, the Secretary must on no account lose sight of the fact that he will be expected to prepare the balance sheet and the manufacturing, trading, and profit and loss accounts for consideration by the Board. If approved, these accounts may justly be said to be the accounts of the Directors, when the auditors would be informed that the books are ready for audit. It is, unfortunately, only too frequently found that auditors are called upon to enter upon their annual duty, of certifying the accounts with a discrepancy in the books (even though small) awaiting to be traced. We can only characterise such an action on the part of the officials of the Company as a sheer admission of incompetence. It should not be forgotten, moreover, that, by section 113 of the Companies (Consolidation) Act, 1908, which very fully and explicitly defines their duties, the auditors would be acting at any rate ill-advisedly in doing anything whatever in regard to the accounts or, in the preparation of the Directors' report or balance sheet. It will thus be obvious that in cases where a Company's auditors are found (as an accepted custom, and in some very important Companies, too), balancing the books and preparing the balance sheet and profit and loss accounts, they are actually auditing and reporting to the shareholders on *their own accounts* of the Company's affairs—a somewhat Gilbertian position. Unfortunately, this is too frequently occasioned by the hopeless incapacity of the executive, the consequence being that if the auditor does not carry out these important duties they would not be done at all, the auditor having, willy-nilly, to accept the situation—perhaps without any addition to his fee! This condition of affairs is, however, very often the outcome of a cheese-paring policy on the part of the Directors

themselves. It is to be regretted that few Directors have a proper knowledge of this matter: they appear to consider that an auditor is wanting in his duty, or is too well remunerated, if he does not do something towards the closing of the books or to save the time of the clerical staff to "put matters right" when troublesome trial balances are the rule rather than the exception.

The careful recording of all cash receipts and payments in regard to capital is a question which does not always receive the attention it demands once a Company has passed through its initial stages. Probably in the case of some unfortunate ventures, this attention is not imperative—the position of affairs generally speaks for itself on this score. From the first entry in the Company's general cash book, the greatest care should be exercised properly to distinguish between moneys received or paid on capital account. In many of the Companies formed with special Parliamentary powers, such as railways, canals, tramway, water, and dock Companies, they are required by the particular enactments embodying their existence to adopt what is known as "The Double Account System." This requirement implies nothing more than that such Companies as are expected to do so must, from time to time, exhibit in their published accounts the sums of money which have been received as against fresh issues of capital or loans on the one side, and of payments made for certain specific purposes, whereby the Company's fixed assets have been added to, on the other, the balance remaining to the debit or credit of the general balance sheet as the case may be. An excess of receipts over expenditure would enable the Directors to see that so much remains for the purposes of working capital. An excess of expenditure on the other hand would reveal the fact that the moneys received on Revenue Account have been encroached upon.

The system adopted in the cash accounts of the Company should be founded on this basis. How often does a body of Directors find itself confronted with the dilemma of being in the happy position of placing before their shareholders a good round sum in their profit and loss account in the shape of profits, and yet the coffers of that Company are sadly depleted? The Company is an expanding one: they have constantly added to their buildings, their machinery, plant, rolling stock, and have long ago exhausted the capital moneys received from shareholders with which to provide



## STATEMENT of WAYS AND MEANS submitted to Board

-on October 1st, 19.., made up to the previous day.1

Dr.

Gr.

[illegible]

these additional profit-earning assets. As a consequence, the money earned as the proceeds of trading has been swallowed up from time to time, with the result that, instead of being in a position to distribute profits to their shareholders, they have to propound suggestions as to creations of large reserve funds and carrying large amounts of "profits forward to next year," and then to issue fresh capital or exercise their borrowing powers.

This is not the only drawback. We should also most certainly find that the Company's debtors, who expect to enjoy whatever terms of credit may be recognised in their particular trade, are being unduly harassed for payments on account, as a special favour. This can only be expected to have an effect detrimental to the friendly relations between the Company and some of its best customers.

The Secretary will observe from what we have said that he should put himself to no small pains to keep his Directors fully advised as to the true financial position of the business from time to time. At each meeting of the Board, we advise him to submit a statement known as a Statement of Ways and Means similar to that appearing on page 161. This must be compiled in strict conformity with the cash book as made up to the day preceding the meeting. Once at least every month, this statement should give the amount of the Company's liabilities and assets, or personal accounts, ascertained from the actual books of accounts, which should always be kept written up to date; this monthly statement must not be a mere loose statement of accounts such as have been received, or of rough extracts from the sales ledgers. Proper lists of the Company's debtors and creditors should accompany the Statement of Ways and Means, enabling the Directors to form an accurate idea of their position, and showing what means they have at their disposal to deal with current or projected matters.

And now with regard to periodical returns of business done—a great deal must, of course, depend upon what the nature of the business in hand happens to be. We cannot lay down any hard and fast lines to work upon, except that, whatever the character of the concern, means must always be employed to keep the Board thoroughly posted up from time to time with actual progress made, and here again proper attention must be paid to the closest accuracy. Approximate or estimated information embodied into a statistical return may give the directorate an entirely wrong impression.

**Form 56.**

**MONTHLY RETURN SUBMITTED TO BOARD, OCTOBER 1st, 19...**

	Last Year.			This Year.			
			% to Sales.			% to Sales.	
Month of September.							
Sales	5,610	13	8	6,411	3	4	Last year. Tons Raised .. .. 13,698
Wages	2,861	3	51.53	3,058	15	7	Less slack .. .. 1,167
Set charges, purchases, and expenses	861	17	15.37	901	1	14.05	
(To be set out in detail with percentages)	3,753	1	8	3,759	16	8	Cost per ton—5/11 96. s. d.
							This year. Tons Raised .. .. 16,410
Gross Profit	1,857	12	0	2,451	6	8	Less slack .. .. 1,317
			100.00			100.00	Cost per ton—5/3 81. s. d.
							14,893
Four months ending Sept. 30.							
Sales	19,618	5	3	23,519	1	11	Last year. Tons Raised .. .. 49,519
Wages	10,680	11	7	11,687	7	2	Less slack .. .. 3,861
Set charges, purchases and expenses	3,317	6	9	3,710	8	11	
(To be set out in detail with percentages)	13,997	18	4	15,706	16	1	Cost per ton—6/1 42 (as per cost sheets). s. d.
Gross Profit	5,520	6	11	7,912	10	33.51	This year. Tons Raised .. .. 61,849
			100.00			100.00	Less slack .. .. 5,519
							Cost per ton—6/7 28 (as per cost sheets). s. d.
							56,030
							Cost per ton—6/7 28 (as per cost sheets). s. d.
							56,030
							Sidek—P4 month .. .. 10,049 Tons
							London wharves .. 2,169 "
							12,218

Such data as are given in a return should be founded entirely upon the books of account from time to time. Comparisons must be made with similar periods in previous years, and percentages worked out showing the cost of output as nearly as possible for each of the branches and their departments. All this will depend largely upon the initiative or the guiding spirit of the clerical staff to give effect to these aims. We can only indicate the broad outlines upon which to work: once acquired, the fundamental principles will be found to apply in a more or less modified degree to all classes of business with which the Secretary is likely to deal.

The Articles of Association usually require that the books of account shall be kept at the registered offices of the Company and shall be there open to the inspection of any member of the Board at all times; and no member of the Company, not being a Director, has any right to inspect any book of account or document except with the authority of the Board.

The Directors are usually required to lay before the members in general meeting a balance sheet and profit and loss account exhibiting the true position of affairs, which accounts are to be duly audited and certified as correct. The accounts so presented are to be made up to a certain prescribed period antecedent to the date of the meeting. In Table A, this period is given as six months: three months, however, is the time most frequently provided for in special Articles.

The annual accounts, as presented to the shareholders at their general meeting, are to be accompanied by a report made by the Directors, briefly stating the present position and prospects of the concern and commenting upon the year's working. They are also to state what dividend is recommended to be paid, and also what they consider should be passed to Reserve or carried forward to the next year's working.

All members of the Company are entitled to receive a copy of the report and accounts, unless any class is expressly precluded from this privilege by the Company's regulations. Such report and accounts are to be forwarded to each member's registered address not later than seven days prior to the date of the meeting.

If the Company has a special Stock Exchange quotation, the regulations of that body require that two copies of the Directors' report and accounts are to be forwarded to the Secretary of the Exchange.

The subject of the auditors has been already briefly referred to. It will be necessary, before passing on from the subject of the accounts of limited companies, to deal as shortly as possible with the main points surrounding the question of their rights and duties. Before the Companies Acts, 1900 and 1907, the subject was very imperfectly dealt with: sections 112 and 113 of the Consolidation Act, however, deal in the first instance with their appointment and remuneration, the latter section setting out in detail their powers and responsibilities more satisfactorily. All Companies are required at each annual general meeting to elect an auditor, who shall hold office until the next annual general meeting, and no Director or officer of the Company may be appointed to this office. It is usual to state the amount of remuneration to be paid when making the appointment, both being embodied in one entry in the minutes of the meeting. Where no appointment has been made in the prescribed form, it is open to any member to apply to the Board of Trade to make such appointment and fix the remuneration.

Auditors would, of course, automatically retire from office at each annual general meeting, but, if it is sought to nominate another auditor, section 112 (4) requires that fourteen days' notice before the general meeting must be given of such an intention and this notice must be immediately intimated to the retiring auditors. The subsection further requires that the shareholders shall also receive notice of this suggested change of auditors full seven days before the meeting.

At the formation of the Company, the first auditors to hold office are selected by the Board, who will fix their remuneration. At the statutory meeting, they would be appointed in the usual way by the shareholders, and would continue to act until the next annual general meeting. If any vacancy occurs in the position of auditor, it is within the powers of the Board to fill such a vacancy, but any surviving auditor may continue to act in company with another filling the vacancy until the next annual meeting.

The auditors are now given very searching powers in regard to the compilation of their report upon the accounts of the Directors. They are to be granted full and unimpeded access to all books, documents, receipts and vouchers of the Company, at such times as they may deem expedient; the Directors and all officers of the

Company are required to provide them with whatever information or explanation they seek.

At the close of each financial year, the auditors are to make a report to the shareholders as to the accounts they have investigated. They are further to report as to whether all desired explanations or information from the Board or the Company's officers has been forthcoming, and if, in their opinion, the balance sheet to be referred to in their report is drawn up in such a manner as correctly to explain the true position of the Company's affairs.

All balance sheets submitted to the auditors are to be signed by two Directors at a properly convened meeting of the Board. It is customary and very necessary that a formal resolution should be passed by the Directors, authorising two members of their body to sign the document ; when the auditor's report has been received, it will be attached to the balance sheet upon which some note will be made referring to the report.

A somewhat common practice has arisen during and since the Great War of capitalising all or portions of reserve funds, and in some instances also, of undistributed profits. This has introduced a problem into Company Accountancy very infrequently found in pre-war days, and may be said to be justified in view of the greatly appreciated values of practically every kind of property. Those responsible for the management must have particular care in approaching such a problem as this, especially in regard to the re-valuation of assets before it is decided to inflate the existing issued capital brought about by an entirely automatic process of transferring a given sum from accounts headed Reserves or Profit and Loss Account to whichever class of issued share capital it is decided to allot new shares. Another point to be carefully observed is to see that whatever sum is taken for any class of share in the form of bonus is that a *pro rata* issue must be made throughout all the existing holders of that class in the proportion of one to ten, one to five, or, as the case may be, and any step so taken must be thoroughly thrashed out by the Board and afterwards submitted to the shareholders to be approved in general meeting.

## CHAPTER XXI

### DISTRIBUTION OF PROFITS

At the end of the financial year and as soon as the result of the trading has been arrived at and the accounts audited, the Directors will decide in what manner they intend to apportion the profits which have accrued. Their declaration of the dividend naturally forms the *pièce de résistance* at the annual or, as it is more commonly called, ordinary general meeting of the shareholders. With the accumulated profits before them, the Board will be primarily guided by the Company's Articles of Association or the Memorandum of Association, where clauses will be found giving the precise method in which the different classes of shares are entitled to their share of profits and also the priority which the different classes of shares bear to each other. Provision will also in all probability be made for sums to be set aside to form a reserve or reserves out of the profits earned. They may, in addition, specify that only a certain rate of dividend shall be paid on ordinary or deferred shares until a certain sum in the reserve fund has been attained. The Articles may require that any reserve fund shall be covered by a specific investment; that is, they may require the Company to invest an equivalent sum to that set aside as a reserve in "Trust" Securities. Provisions on this subject vary to a very large extent in different Companies. It is not easy to lay down any definite data with regard to it. We will merely give a brief recapitulation of the clauses contained in the revised Table A, as these or similar clauses are usually found in the Articles as now framed for the majority of Companies :—

- i. All Companies are required to declare dividends in general meetings, and no dividend can exceed the amount recommended to be paid by the Directors.
- ii. The Directors are empowered to pay such interim dividends as may appear to them to be justified by the profits accrued. The Directors should never avail themselves of this provision unless proper accounts are prepared for the

quarter or half-year, as the case may be, in precisely the same manner as for the whole year. Any dividend declared under this clause may be cancelled, but only before payment of such dividend.

- iii. No dividend can be paid out of the capital of the Company, except as allowed by sect. 91. It is unlawful to pay any dividend out of capital unless such a proceeding be authorised by the Articles of Association. Such dividend may not exceed four per cent.
- iv. Except where special rights attach to certain shares, such as those issued as fully paid for a consideration under conditions which we have previously described, all dividends are to be paid according to the amounts paid up on shares. No dividends are to be paid upon calls paid in advance.
- v. Directors may, before allowing for the payment of any dividend, set aside out of the profits such amount as they may deem to be necessary for creating or augmenting a reserve or reserves. Such reserves are applied to meeting any contingencies in the future, for equalising dividends, or for other purposes for which the profit may be thereafter applied. Any reserves so set aside may be invested in any security other than the shares or debentures of the Company.
- vi. When a share or shares stand in the joint names of more than one holder, any one of those holders may give a receipt for dividends paid in respect of such shares, and a receipt so given would be a valid discharge.
- vii. Notice of any dividend declared must be given to all the members in the manner provided by the Company's regulations for the giving of notices.
- viii. Dividends cannot bear a charge of interest against the Company.

It must not be overlooked that the foregoing stipulations are given only as illustrating the probable course to be pursued in this important matter. Recourse must consequently be had to the special Articles drawn up for the regulation of the Company's affairs. The Secretary must be careful to scrutinise closely these Articles, and he should epitomise the various clauses dealing with the subject



Before the Board meeting is held at which the matter is to be discussed.

For the better guidance of the Directors, a statement should be furnished showing what amounts will be absorbed at different rates per cent. on ordinary or deferred shares after allowing for any fixed dividends which have been, or have to be, provided on Preferred Shares, and also allowing for any sum which the Articles may require to be provided for the establishment of a reserve or for adding to an existing fund.

The dividends having been decided upon, it will next be necessary to draw up the lists showing the amount due to each member entitled to receive it. To accomplish this the Share Register will have been closed for a sufficient time, not exceeding the period prescribed by the Articles, to enable the books to be balanced. During this period, no transfers will be received for registration after the date of closing, which will be the subject of an advertisement in one of the financial newspapers.

The simplest way to arrive at an agreement of the Shares Registers is to prepare a kind of rough trial balance of the separate registers if there be more than one. It is only necessary to prepare a list of the open share accounts, simply giving the folio and the balance of shares standing against each member's name after the following manner :—

Register No. 1.	Folio.	No. of Shares.
. .	1	150
		50
	2	100
		10
	3	5
	5	1000

and so on throughout the registers. It will be seen from the example above that against folio 3 only one amount of shares is shown; assuming the registers to contain the accounts of two members to the page, this will imply that one of the accounts has been closed. Again no mention is made of folio 4; both accounts on that folio are, therefore, without remaining balances.

Whilst on the subject of agreeing the registers, we give a useful method to be employed in cases where more than one register is in use. Those of our readers who are familiar with self-balancing

ledgers in ordinary book-keeping work will, readily perceive the advantage it confers, an advantage by no means to be ignored when we consider the amount of work involved when the registers obstinately "refuse" to agree. It will have been gathered from our description of the Register of Transfers that the nature of that book resembles the relation of the ordinary journal to usual books of account. This register is used as a book from which postings are made from and to the shareholders' accounts in the different registers. It is a simple matter to determine what number of shares have been posted to transferors' and transferees' accounts in either of the registers, in other words, to obtain the precise debit and credit postings to each book, in ordinary book-keeping parlance. Now, assuming that we are proposing to agree the registers for the first time since the allotment of shares, we shall be in a position to know the number of shares standing in each register before any transfers were posted into them, the shares bought being added to this starting balance, so to speak, and the shares sold being deducted from it will give, as a result, the number of shares which remain as the total holdings of such members' names as the particular register contains.

The small amount of extra labour entailed by adopting the following plan of analysing all postings to and from the respective registers will be well expended when the facilities such a system affords are realised as the balancing time comes along. We recommend the adoption of this analysis of the postings to commence with the actual starting of the postings and to continue as the year or half-year progresses; and, further, when checking the postings to the registers, this analysis should be checked at the same time.

For the purpose of applying this principle in practice, we will suppose that we are about to "close" the Registers for the first time for the purpose of compiling the dividend list; our remarks will, of course, apply equally to the Registers of Preference Shareholders. In this example, then, we will assume that there are three Ordinary Share Registers in use, two completely full, the third, say, for the sake of illustration, half full, it not being considered likely that a fourth will be required before another balancing period. Ruled sheets must be prepared on the same pattern as shown overleaf, and these should be of such a size as to contain the same number of lateral rulings as there are upon each page of the Transfer

## ANALYSIS SHEETS OF TRANSFER REGISTER POSTINGS.

Transferors' Postings.			No. of Deed.	Transferees' Postings.			Remarks.
Register No. 1.	Register No. 2.	Register No. 3.		Register No. 1.	Register No. 2.	Register No. 3.	
	10		1	10		150	
150			2		95		
1000	95		3		1000		
		105	4			105	
200			5	200			
	500	450	6	500	450		
etc.	etc.	etc.	7	etc.	etc.	etc.	
			8				
			etc.				
1350	605	555		710	1545	255	
2510				2510			

Register, so that the total number of shares, transferred upon each page of that register shall coincide with the number of shares represented by the postings on each sheet. It is recommended to keep the column allotted to the Deed Numbers in the middle of the sheet, as it forms a useful dividing line between the three columns on each side of it.

Due care having been observed to record properly the shares posted to their respective columns under the heads of the Registers to which they are carried, this system affords the readiest possible means of agreeing each book upon the self-balancing principle and is applied in precisely the same manner as adopted in practical modern accounting.

From an inspection of the form of analysis, it will be seen that the sum of the three separate columns on each side are equal : the total of each of the three columns represents the number of shares transferred by the deeds appearing upon the particular page of the Transfer Register to which the sheet of the analysis relates. This analysis, being carried right through the period during which it is desired to effect an agreement, will enable us to arrive at the total number of shares posted to or from either of the Members' Registers. For example, let us suppose we are about to agree the first Register ; we shall proceed as follows :—

The number of shares in the Register at the completion of the allotment, or at the date of the last agreement, was, say		20,000
<i>Add</i> The number of shares posted to transferees' accounts since that date amounting to, say	5,000	
	25,000	
<i>Deduct</i> The number of shares posted to transferors' accounts amounting to, say	7,000	
Leaving..	18,000	

which will represent the number of the shares now in the Register, if the postings are correct, and should agree with the total balances extracted from it at the close of the period.

Each Register having been agreed in turn, the resulting total of

**Form 58.**

**FIRST ORDINARY DIVIDEND LIST. 26TH OCTOBER, 19..**

No. of Warrant.	Name.	Address.	Folio of Register.	No. of Shares Held.	Composition of Warrant.			Date Paid by Bank.	Remarks.
					Dividend at 10 %.	Less Tax.	Amount of Warrant.		
678.	Nixon, Elias	Quarry Margr. Buckhampstead	1/405	500	50 0 0	2 10 0	47 10 0	Oct. 28	To London Joint-Stock Banking Corporation, 248 Chan- cery Lane.
679	Cauldwell, Miss Edith	Hughenden Villas, Hampstead.	1/406	50	5 0 0	5 0 0	4 15 0	Nov. 1	
680	Clapper, Geo. J.	clo Harper & Co., 1 Old Change, E.C.	1/408	150	15 0 0	15 0 0	14 5 0	Nov. 2	
681	Jayson, Capt. Wm. H.	clo Cox & Co., 100 Strand, W.C.	1/408	1000	100 0 0	5 0 0	95 0 0	Oct. 27	To Cox & Co., 100 Strand.
etc.	etc.	etc.	etc.	etc.	etc.	etc.	etc.	etc.	etc.

**Form 59.**

*Specimen Notice of Dividend and Share Warrant*

Counterfoil.

No.  
**678**

*First Ordinary Dividend.*

<i>Name of Shareholder</i>	<i>Elias Nixon.</i>			
<i>Amount of Dividend on</i>	<i>500 shares @ 10 %</i>	<i>£50</i>	<i>0</i>	<i>0</i>
<i>Less Income Tax</i>	<i>.. .. .</i>	<i>2</i>	<i>10</i>	<i>0</i>
	<i>Amount of warrant</i>	<i>47</i>	<i>10</i>	<i>0</i>

*Sent to Joint-Stock Bank,  
Chancery Lane.*

THE CONSOLIDATED LOAMSHIRE COLLIERIES CO., LTD. No.

**678**

• NOTICE OF FIRST ORDINARY DIVIDEND.

19 Milk St., Walbrook, E.C.,  
26th October, 19..

Dear Sir,

Attached hereto I have the pleasure to forward you Dividend Warrant made up as follows:—

10 % dividend on	500 Ordinary Shares	£50	0	0
Less Income Tax	.. .. .	2	10	0
		£47	10	0

The warrant should be detached from this notice, duly signed in the space provided, and paid into the bank as early as possible.

I am, Sir,

Your obedient Servant,

A. Rashleigh,

Secretary.

To Elias Nixon, Esq.,

Quarry Manor,  
Buckhamstead.

N.B.—The production of this notice will be regarded by the Inland Revenue Authorities as evidence that the tax hereon has been paid.

THE CONSOLIDATED LOAMSHIRE COLLIERIES CO., LTD. No.

**678**

**1**

FIRST ORDINARY DIVIDEND WARRANT.

26th October, 19..

To Messrs. Argent & Company,  
Bankers,

Money Street, E.C.

PAY to Elias Nixon, Esq. or order the sum of forty-seven pounds ten shillings and — pence.

For the Consolidated Loamshire Collieries Company, Ltd.,

Labex Wright, Director.

A. Rashleigh, Secretary.

£47 : 10 : 0

Received the above sum Elias Nixon

N.B.—Unless this warrant is presented at the Company's bankers before the expiration of three months from the date hereof, it must be returned to the Company to be verified.

SHAREHOLDERS' NOTICE AS TO PAYMENT OF DIVIDENDS.

No. 59.

To the Directors of

The Consolidated Loamshire Collieries Company,  
Ltd.

GENTLEMEN,

I request you to be good enough to forward any dividends which may now be due to me, or may hereafter accrue, to the credit of my account with *The London and Joint-Stock Banking Corporation, Limited,* of *248 Chancery Lane, London, W.C.,* whose receipt shall be your full discharge.

I am,

Yours faithfully,

(Signature) *Elias Nixon,*

(Address) *Quarry Manor,  
Buckhampstead.*

Dated this *14th* day of *December,* 19...

For Office use  
only.

Entered in Share Registers

Date *15/12/1...*

*Pref. 3/181  
Ord. 1/405*

By *W. J. E.*

the trial balance also coinciding with the total number of shares issued, the dividend lists may now be proceeded with.

As in the case of allotment, it is the best plan to prepare this list upon loose sheets to be afterwards bound up. This enables one clerk to write in the names, addresses, and the number of shares against each, not forgetting to insert any information from the register as to shareholders' instructions to pay the dividend to their bankers direct, with which we shall deal later, whilst another clerk takes the list in hand to calculate the dividend and the tax to be deducted. The lists are compiled with the rough trial balance as a guide, which, when agreed, makes a correct basis upon which to work. The lists should be totalled as they are prepared and made to agree with the trial balance up to the point of their completion. This will guard against omission. As the dividends are completed, a third clerk may be engaged to write out the warrants.

A dividend warrant is virtually a cheque: indeed, it is treated by the bankers in precisely the same way as an ordinary draft upon them. The warrant, a specimen of which appears on page 174, is employed in this form for the sake of convenience as being more easily distinguished from the ordinary cheques of the Company. To meet the total amount of the warrants issued for the payment of any particular dividend, the usual course to pursue is to inform the bankers that a special account will be required, this to be designated, say, the "First Ordinary Dividend Account." With the letter containing these instructions should be enclosed a cheque equalling the total amount of the dividend, less the tax deducted, which is to be paid in to the credit of this Special Dividend Account. As a consequence, any balance remaining on that account will represent the amount of the warrants which have not yet been presented for payment. The bank will supply a pass book for each dividend account opened, which should be checked from time to time with the other pass books of the Company, the dates of payment by the bank being entered in the column provided for that purpose in the dividend list. See page 173.

There are quite a number of investors who send in to the Companies in which they hold shares requests that their dividends are to be paid direct to their bankers. To cope with this, it will be found advisable to have a form especially printed similar to that reproduced on page 175 which the shareholder should be required to fill in



and sign. In large Companies, the practice of employing a recognised form for any matter of this kind is very useful, as it results in having all such transactions carried through and filed on a uniform basis. Each form should be numbered consecutively and filed away in a special file kept for the purpose, the particulars contained in the request having been previously entered in the Register or Registers, in which the shareholder's name may appear. When preparing the dividend list, care must be exercised to observe that the banker's name and address are properly entered in the Remarks column in order that the warrant may be sent to the required destination. A few Companies go to the trouble of sending a notice to the shareholder direct, stating that the dividend warrant has been despatched to his banker, but we do not think this is necessary. If care is taken to observe that the warrant when passed through the Company's bank account has been received by an official of the shareholders' bank, all that is necessary will have been done.

In order to prevent the payment of money to persons residing in enemy countries, the Trading with the Enemy Act, 1914, provides that any sum payable by way of dividend to or for the benefit of an enemy, shall be paid to custodian of enemy property. For England and Wales, the custodian is the Public Trustee. (See Appendix F.)

In considering distribution of profits at the approach of the annual general meeting it is now often found that instead of paying out much higher dividends than in pre-war days to convert given portions of accumulated profits during current and previous years in the form of bonus shares. A great number of companies have resorted to this expedient, and the method of procedure, to be adopted calls for very careful arrangements. We dealt in a previous chapter with this as regards the accounts, but at this juncture it is only necessary to say that special lists of any class of shareholders participating in such an arrangement must be prepared and shares will be allotted after approval by members in general meeting on a *pro rata* basis for each class of share affected.

## CHAPTER XXII

### RESOLUTIONS

THE portion of a Company's business required to be sanctioned by means of Extraordinary or Special Resolutions depends largely upon the stipulations set out in the individual special regulations. But, whatever those regulations provide for, the Statutes require that certain propositions to be put before the Company's shareholders shall only be given full effect to by the passing of an Extraordinary Resolution. Such a Resolution must be passed by a majority of three-fourths present or voting by proxy (where proxies are allowed by the Articles) at a meeting which has been properly called for the purpose, and the full text of the proposed Resolution must be embodied in the notice convening the meeting. This Resolution, if duly passed at the meeting for which it has been called, will become a Special Resolution, if confirmed at a subsequent meeting (at which a mere majority only is necessary) called after a space of not less than fourteen days, and not more than one month, after the passing of the Extraordinary Resolution. (Section 69 (1) (2) Companies Act, 1908.)

To perform any of the following acts, the Statutes require a Special Resolution :—

- (a) To change the name of the Company (see sec. 8 (3), Companies Act, 1908), which change will also require the sanction of the Board of Trade.
- (b) To modify in any way the existing Articles of Association of the Company, or any previous Special Resolution (section 13 (1)).
- (c) For the appointment of a Committee of Investigation to enquire into the affairs of the Company (section 110 (1)).
- (d) To wind up the Company either by the Court, or voluntarily (sections 129 (i) and 182 (2) respectively).
- (e) To extend or in any way modify the liability or status of the Directors (Act of 1908, sec. 61 (1) (2)).

- (f) To reduce the whole of the Company's paid-up capital or to cancel a portion of it (Companies Act, 1908, secs. 46 and 41 (2)). The consent and confirmation of such a Special Resolution must be obtained from the Court.
- (g) To alter the shares of the Company into shares of a different amount (Companies Act, 1908, sec. 41).
- (h) To apply accumulated profits to the purpose of reduction of the paid-up share capital (Companies Act, 1908, sec. 40).
- (i) To allow any portion of the uncalled or unpaid capital to become payable only in a case of winding up (Companies Act, 1908, secs. 58 & 59).
- (j) To permit the liquidator, or any person entrusted with the realisation of the affairs of a Company (which Company is proposed to be, or is, in course of voluntary liquidation), to effect a sale to any other Company in consideration for shares, or interest of a similar nature (Companies Act, 1908, sec. 191 (1) (2)).

Where it is sought to extend the objects clause of Memorandum of Association of the Company (Memorandum of Associations Act, 1908, sec. 9).

To carry out any of these projects, it is necessary to conform strictly with those provisions of the Statutes which we have cited.

The most important section in the Companies Act, 1908, with regard to these matters is section 69, which sets out fully what shall constitute a Special Resolution and the manner of passing it. Section 182 of the same Statute deals with Resolutions to be passed to proceed to wind up the Company.

Careful observation must be paid to the form and publication of notices of meetings called for the purpose of putting an Extraordinary or Special Resolution before the shareholders. The notice must be given seven days before the meeting, that is, seven *clear* days, exclusive of the date of posting the notice and the date of the meeting; further, the notice must contain the full text of the Resolution it is proposed to submit. In the second place, it must be noted that the requisite majority of "three-fourths of the members present or voting by proxy" must be obtained. Any

person present who is entitled to vote, but does not so vote must be deemed to be against the Resolution, and the same rule applies also to the confirmatory meeting ; but at the latter meeting the three-fourths majority is not required for the final carrying of the Resolution, a bare majority of " those present " being sufficient. The fourteen days' interval between the passing of the Extraordinary Resolution and the date of the confirmatory meeting must be fourteen *clear days* ; that is to say, sixteen full days must intervene. A fresh notice must be given of the confirmatory meeting, also allowing for the seven clear days. This notice must contain the full text of the Extraordinary Resolution which has been passed at the first meeting, and which is to be submitted for confirmation as a Special Resolution.

More than one Resolution may be put to a meeting which has been properly convened; provided that notice of each separate resolution has been given. But the voting on each motion must be distinct : it is not permissible to put more than one resolution to the vote at one time.

Where a poll is not demanded on the declaration of the result of a vote on a show of hands, the Chairman's announcement shall be conclusive evidence and the Resolution will be valid, unless it can be shown that any irregularity exists in any procedure connected with the routine of passing it.

Every " Special " Resolution is required to be filed with the Registrar of Joint-Stock Companies within fifteen days of its being passed. The copy of the Resolution must be written upon the form prescribed by the Companies' Registrar's department, and be accompanied by full particulars of the passing and confirming of the Resolution, giving the dates and places where the two meetings were held. The form must bear the signature of the Chairman of the meeting or of the Secretary, and is required to be impressed with a five-shilling fee stamp. A penalty of two pounds *per diem* is imposed for non-observance of this provision (Companies Act, 1908, section 70).

A printed copy of each Special Resolution must also be inserted in each copy of the Company's Articles of Association and will form part of it, and this copy must be embodied in each copy of the Articles issued after the passing, or confirmation, of the Resolution, the new Resolution forming an *addendum* to the Company's

regulations. Every Director or Manager is liable to a penalty of one pound for each copy of the Articles which is not so amended. It will be recollected that every member of the Company is, upon payment of one shilling, entitled to a copy of the Company's Articles of Association. Such a copy would not be a true one without the insertion of any new regulation which had been the subject of a Special Resolution affecting the Company's actions from the date when it was passed at the confirmatory meeting.

Resolutions which do not come within the headings of those we have discussed in this chapter are known as Ordinary Resolutions. A perusal of the minutes of a shareholders' meeting given on page 149 will show the construction of such Resolutions. They cover any ordinary business which is transacted at the general meetings of members; but notice must be given of the purport of such business as will be covered by any Resolution to be put. That is to say, the usual phraseology employed in convening a meeting and specifying the business to be dealt with at that meeting is sufficient to deal with an Ordinary Resolution on the several points mentioned in the notice. As to what can be disposed of by means of an Ordinary Resolution will, to some extent, depend upon the Articles. A bare majority merely is necessary, and no confirmation is required as in the case of Extraordinary Resolutions.

## CHAPTER XXIII

### <sup>1</sup> TRANSFER OF SHARES

WE now come to a subject which may be considered as one which enters into the daily routine of the officials of all limited Companies whose shares find a place on the official quotations of the London Stock Exchange. It will also concern all who have to do with joint-stock Companies in whatever capacity their work happens to lie. The following particulars will, to a greater or less degree, contain details of the methods of transferring shares from one shareholder's account to another, whether the Secretary is handling the affairs of a Company with millions of paid-up capital held by thousands or tens of thousands of members, or a small private concern with the minimum number of shareholders who constitute the proprietorship of the business.

Share transfer work is a branch of the Company Secretary's duties demanding the greatest care in every detail. In large Companies, we not infrequently find an official who is known as the Registrar, who, under the Secretary, is held solely responsible to the Board for all work connected with the business of dealing with the shares. In such large businesses, it would indeed be quite impossible for the Secretary to supervise personally the multifarious details passing through the Transfer Department. The Registrar is, therefore, accountable for the routine of that department. The Secretary is, however, the official who is actually responsible for the matters with which a Registrar deals, and he would certainly be wanting in his duty if he allowed matters to drift without some personal supervision of the work of his subordinate official and his assistants. Many are the instances which could be cited where unfortunate irregularities have occurred through laxity in this all-important sphere. The best of clerks is likely to err sometimes, and an error may mean the irrecoverable loss of thousands of pounds.

By following the methods which we shall set out in the following pages, however, and by a careful and intelligent application of the principles advocated, it will be found that the chances of an unfortunate error occurring will be reduced to a minimum. But, with

<sup>1</sup> See Appendix F regarding transfers to Enemy subjects.

all the precautions which human ingenuity and foresight may be capable of devising, the Secretary must never relax the closest and most searching scrutiny of every detail, even to the extent of having signatures compared whenever a transfer is deposited for registration.

It will be well at first to consider what the act of the transfer of shares consists of. Briefly, the reasons or causes which give rise to a change of proprietorship of a share or shares may be :—

- (i) A deed of transfer executed according to the requirements specified in the Company's Articles of Association ;
- (ii) The demise of the member ;
- (iii) The bankruptcy of the member ;
- (iv) The lunacy of the member.

The last three will form the subject of a subsequent chapter.

For the present, we shall confine our attention to the first of these instances, and consider of what a deed of transfer actually consists. As its name implies, a transfer deed would be known in legal phraseology as a specialty contract, *i.e.*, an agreement under seal and duly attested by witnesses to the signature of each party agreeing to transfer the shares for the consideration stated within it. A specimen of a duly executed deed is given in Form 61 on page 184. It is in the form usually prescribed in the Articles of Association of most Companies, and as required by the Committee of the London Stock Exchange. Such a document, when properly executed and entered upon the Company's Register of Transfers, and posted to the Members' Register, conveys all the rights, and imposes all the liabilities, upon the person acquiring the shares, who is known as the "transferee," the individual disposing of the shares being known as the "transferor." Before any such transfer can be registered in the Company's books, it must bear an impressed stamp for Inland Revenue Duty on the following scale :—

Where the consideration is not over £5  
and 6d. for every further £5 or fraction thereof up to  
£25.  
Where the consideration exceeds £25 but is not over £50  
and 2s. 6d. for every £25 or fraction thereof up to £300.  
Beyond £300 the duty payable amounts to 5s. for every  
£50 or a fraction of £50.

## Specimen Transfer Deed

Stamp  
impressed,  
7s. 6d.

35  
Certificate numbered  
595 relating to the within-  
named shares numbered  
71201 to 71255 inclusive  
lodged with the Company  
this 3rd day of Oct. 17, 1909.  
A. Rashleigh,  
Secretary.

I, *Thomas James Pitfield, Linendraper, of 190 Cliveden Crescent, Oaklands, Hayshire,* in consideration of the sum of *Sixty-nine pounds, ten shillings* paid by *Josiah Tupman, a Captain of His Majesty's Army,* care of Messrs. Deposit and Company, Bankers, Pall Mall East, S.W., hereinafter called the transferee,

Do hereby bargain, sell, assign and transfer to the said Transferee *Sixty-five fully paid 6% Preferred Shares of £1 each numbered 71201 to 71265 inclusive* of and in the undertaking called *The Consolidated Loamshire Collieries Company, Limited.*

To hold unto the said Transferee *his* Executors, Administrators, and Assigns subject to the several conditions on which *I* held the same immediately before the execution hereof; and *I* the said Transferee do hereby agree to accept and take the said *shares* subject to the conditions aforesaid. As witness our hands and seals this *thirteenth* day of *September* in the year of our Lord, One thousand nine hundred and

Witnesses

Signed, sealed, and delivered by the above-named *Thomas J. Pitfield,* in the presence of

{ Signature *James Barber,*  
Address *1 High Street, Oaklands.*

*Thomas J. Pitfield. (L.S.)*

Witnesses

Occupation *Cashier.*

Signed, sealed and delivered by the above-named *Josiah Tupman,* in the presence of

{ Signature *Matilda Surefoot,*  
Address *Gray's Court, Hether Green, Kent.*

*J. Tupman. (L.S.)*

Witnesses

Occupation *Housemaid.*

Signed, sealed and delivered by the above-named

in the presence of

*(L.S.)*

Witnesses

{ Signature  
Address  
Occupation

Signed, sealed and delivered by the above-named

in the presence of

*(L.S.)*

Witnesses

{ Signature  
Address  
Occupation

The Consideration money set forth in a transfer may differ from that which the first Seller received owing to sub-sales by the original Buyer; the Stamp Act requires that, in such cases, the Consideration money paid by the Sub-purchaser shall be the one inserted in the Deed, as regulating the *ad valorem* Duty. The following is the clause in question:—

"Where a person, having contracted for the purchase of any Property, but not having obtained a Conveyance thereof, contracts to sell the same to any other Person, and the Property is, in consequence, conveyed immediately to the Sub-purchaser; the Conveyance is to be charged with *ad valorem* Duty in respect of the consideration, owing from the Sub-purchaser" (*14 & 55 Vict. cap. 39 (1891), section 58, subsection 4).*

## INSTRUCTIONS FOR EXECUTING TRANSFERS.

When a transfer is executed out of Great Britain, it is recommended that the Signatures be attested by H.M. Consul or Vice-Consul, a Clergyman, Magistrate, Notary Public, or by some other Person holding a public position—as most Companies refuse to recognise Signatures not so attested. When a Witness is a Female, she must state whether she is a Spinster, Wife, or Widow; and if a Wife, she must give her Husband's Name, Address, and Quality, Profession, or Occupation. The Date must be inserted in Words and not in Figures.



Impressed  
10s.  
Stamp.

I, *Eustace Maunder Glyn*, of *Barfort House, Wells, Somerset*, Major (retired), in consideration of the Sum of *One hundred pounds* paid to me by *Reginald Joseph Colwyn*, of *The Manor House, Peebles Bay, Ross-shire, General*,

Do hereby transfer to the said *Reginald Joseph Colwyn*, his Executors, Administrators, and Assigns, certain Registered  $4\frac{1}{2}\%$  £100 *Debenture Bond* made by *The Consolidated Loamshire Collieries Company, Limited*, to me and dated the first day of September, 19... , the said *Debenture* securing the sum of *One hundred pounds* and interest, and all my right, estate, and interest, in and to the money thereby secured on the properties and securities thereby assigned.

In witness whereof I have hereunto set my hand and seal this *thirteenth* day of *October*, in the year of Our Lord, One thousand nine hundred and —.

Signed, sealed, and delivered by the  
above-named

*Eustace M. Glyn*,

in the presence of

Signature *Henry Jarvis*,

*Eustace M. Glyn.* (L.S.)

Address *Barfort House,*  
*Wells.*

Occupation *Butler.*

Signed, sealed and delivered by the

above-named *Reginald J.*

*Colwyn*, in the presence of

Signature *Rhoderic Dhu*,

*Reginald J. Colwyn.* (L.S.)

Address *Peebles Bay.*

Occupation *Game Keeper.*

In cases where transfers of shares take place without a valuable consideration passing between the parties in respect to the transactions, the duty to be paid is ten shillings. The Secretary must always see that the proper stamp appears on the deed before he allows the transfer to be registered. This stamp duty must be paid within the space of thirty days from the date of execution of the transfer, and the Secretary is personally liable to a penalty of ten pounds for every omission. By the custom of the Stock Exchange, the stamp duty is paid by the purchaser, though the business of stamping is always attended to by stockbrokers where the shares of the Company are quoted on the Exchange and the deeds have been received through the medium of a broker.

The Act of 1908 contains one important section (22) upon the subject of transfers which runs as follows:—

- (1) "The shares or other interest of any member in a company shall be personal estate, transferrable in manner provided by the articles of the company, and shall not be of the nature of real estate."
- (2) "Each share in a company having a share capital shall be distinguished by its appropriate number."

From the text of this section, it will be seen that the main conditions controlling the methods of transferring shares will be found in the Company's Articles of Association. As an example of what will most probably be found, we will quote the general purport of the half-dozen clauses dealing with the subject in the revised Table A, clauses which are eminently practical from all points of view. The first clause (18) requires that the instrument of transfer shall be executed by the transferor and transferee, and holds the transferor as a shareholder until the name of the transferee is entered upon the Register of Members in respect thereof. It should be noted that, in the event of winding up, a past member may still be liable for calls unpaid unless he ceased to be a member one year or more before the winding up. He is liable only if the existing members are unable to pay, and he is not liable for debts contracted after he ceased to be a member (see sect. 123 (1) vi). Clause 19 contains a form of transfer deed in which the Company will require all such instruments to be made out; it is substantially the same as the one appearing on page 184, and requires no further comment here.

Clause 20 is probably the one of the greatest importance for practical purposes. It specifically gives the Directors power to refuse to register any deed of transfer (for shares which may not be fully paid up) to a person of whom they do not approve, and a similar power with regard to any shares upon which the Company may hold a lien. The clause also empowers the suspension of registrations during the fourteen days immediately preceding the Annual Meeting of the members. The customary fee of two shillings and sixpence for the registration of each transfer is also fixed, and it is further provided that the share certificate relating to the shares named in the deed to be registered shall be surrendered before it can be considered, and, further, that if the Directors deem it necessary, they may require the transferor to produce any other evidence to support his rights in regard to the transfer of the shares.

The provisions of the Forged Transfers Acts of 1891 and 1892 are of some importance, and the powers conferred by these two Statutes are taken advantage of by a great many Companies whose securities have any considerable vogue in the share market. Briefly stated, the scope of the Acts gives a Company or Local Authority power to make compensation to any individuals who may suffer loss through any fraud arising out of the transfer of their securities, or of deeds registered through the medium of a fraudulent power of attorney. Companies are further empowered to levy upon the transferee a fee not exceeding one shilling per one hundred pounds of stock or shares transferred when the deed is entered upon the Company's books, or to cover the Company's risks in such matters by means of insurance, reserves out of capital, or from profits, or in such other manner as the Company may in general meeting resolve upon, or its regulations decree. Further subsections make provision for the Company placing such restrictions upon the transmission of its shares as may be deemed expedient as a prevention against fraudulent practices, and give the Company the same means of redress against any individual convicted of fraud or liable for loss as the person receiving compensation under the Act.

In cases where a Company adopts these measures, whether by means of Special Resolution or through actual provision being inserted by special clauses in its Articles, a special declaration should

## CERTIFICATIONS OF TRANSFERS BOOK.

No. of Certi- fication.	Date when Certified.	Transferor's Name.	Certificate to be Cancelled, No. of.	Transfers Certified for.	No. of Shares.	Date when Transfer Registrd.	Transferee's Name.	Remarks.
7	19... Sept	21 Chudleigh, V. A.	Pref. 461	Samuel & Co. 4 Thread- needle St., E.C.	100	19... Oct.	1 Hutchinson, O.	Balance ticket No. 8 for 100 shares
8	"	24 Quaritch, W.	Ord. 29	Gutch & Brown	10	"	2 Maitland, A.	
9	"	29 Hughes, Ella	De/d. 81	Kingsbury, A. 4 Capel Avenue	25			Balance ticket No. 18 for 75 shares
10	"	30 Jarvis L.	Ord. 918	Conway & Giles	100	Oct.	4 Jerrold Amy	

appear upon the face of the share certificates of the Company to the effect that "The shares of the Company are protected in terms of The Forged Transfers Acts, 1891 and 1892."

A Company generally protects itself in connection with this matter by means of a policy of insurance, or, less frequently, by the creation of a special reserve from accumulated profits. Whenever we find this guarantee system adopted, it is most probable that the ordinary fee of two shillings and sixpence for registration of a transfer is supplemented by a further fee at the rate of one shilling per cent. upon the consideration passing in the transaction, or upon the nominal value of the shares. It must not be overlooked, while discussing the subject of forged transfers, that a deed fraudulently entered into is, by the law of contract, void, and, though the deed be eventually passed through the Company's books and a certificate of shares is issued to the transferee, no rights would accrue to the latter so far as the Company is concerned. A large number of judicial decisions might be quoted upon these subjects. The Secretary will, however, readily understand that our restricted space will be more usefully devoted to topics of everyday practice, for, should he be so unfortunate as to encounter such an unwelcome case as a forged transfer would prove to be, the matter would, of course, be placed at once in the hands of the Company's legal adviser. We do not suggest that the Secretary should ignore the subject in its legal aspects: on the contrary, he should familiarise himself as much as possible with the broad aspects of Company law, and there are several recognised text-books compiled on this subject.

A very considerable portion of the time of the Registrar and his assistants in a large Company's office is occupied by the "certification" of transfers. A transfer is said to be "certified" when it bears such a statement as appears in the top left-hand corner of the form on page 184 to the effect that the certificate relative to the shares has been deposited with the Company at its registered office, or, if it has a separate office for the express purpose of dealing with transfers, at that office, though it is not necessary to state which. The why and the wherefore of the certifying of transfers arise from the practice of the Stock Exchange, though it must not be supposed that all transfers require this treatment. It is fortunate that a large proportion do not, it being an unprofitable and troublesome proceeding

**Form 64.**

**REGISTER OF TRANSFERS.**

*Left-hand Ruling.*

No. of Deed.	Date of Registra- tion.	Transferor.			Shares Transferred.		No. of Old Certifi- cate.	Folio of Regis- ter.	Considera- tion.
		Surname.	Christian Name.	Address (brief).	No.	Distinctive Nos. (inclusive).			
93	19... Oct.	Butcher	George H.	Teddington	150	33701 38850	409	193	178 15 0
94	"	O'Brien	Patrick	Dublin	25	3526 31550	77	53	31 5 0
95	"	Blount	Daniel O.	Keynsham	10	79811 79820	754	280	12 0
etc.	etc.	etc.	etc.	etc.	etc.	etc.	etc.	etc.	etc.

## PREFERENCE SHARES.

*Right-hand Ruling.*

Surname.	Christian Name.	Transferee.	Address.	Description.	Register of Member's Folio.	New Certificate No.	Remarks.
James	Sylvia	7 The Bottons, South Kensington, S.W.	Spinster		801	1359	
Doughty	James	401 Pall Mall, S.W.	Colonel, H.M. Army		802	1360	
Marwell	Edmund Eliot	48 Bucklersbury, E.C.	Stock Broker		803	1361	
etc.	etc.	etc.	etc.	etc.	etc.	etc.	Deeds Nos. 98 to 109 inclusive passed at Board meeting on Oct. 17th, 19..
							(Sd.) J. O. } Directors. (Sd.) J. W. }

from the Company's point of view. It is a practice which has, on several occasions, received judicial recognition. In one case (*in re Bishop v. Balkis Consolidated* [1890], 25 Q.B.D. 520) it was decided that certifying a transfer was part of the business and incidental to the act of transferring shares. As will be seen from an inspection of the specimen of a complete transfer appearing on page 184, the certification appears in the top left-hand margin of the form and gives the number of the certificate lodged, which should be sufficient for purposes of easy identification when further transfers are lodged to be certified against the same certificate, as is frequently the case. The usual method is to use a rubber stamp prepared in the following form, which should not exceed, say, four inches by one and a half :—

**Form 65.**

No..

*Certificate No.----- for the shares named within  
lodged with the Company this----- day of-----  
19----*

*For the X.Y.Z. Company, Ltd.,*

*Passed by.*

*Secretary.*

All certifications made should be recorded in a book kept for the purpose and entered in serial rotation, each entry bearing a number, which also appears on the extreme top left-hand corner of the certification stamp in the space provided as above. We give on page 188 a specimen of a book which has been found to be the most useful type.

It will be found to be an almost indispensable adjunct to the records required to be kept in the Registrar's Department. As to the official who should sign the certification, this will largely depend upon the size of the Company. If a large one, the certifications are generally supervised entirely by the Registrar or even an Assistant Registrar. In such a case, either of these officials would sign the deed, and the india-rubber stamp would bear their description instead of that of the Secretary as shown in the specimen we submit.



In any event, the certification should be checked most carefully before the deed is handed back to the broker's messenger, and the initials of the clerk performing this function should appear in the space given at the bottom of the stamp to the left. The certificate accompanying a transfer to be certified is immediately stamped across the face over the Directors' signatures with the cancellation stamp, and the particulars of the certification with the number thereof as given in the certification book. The number of the shares and distinctive numbers appearing in the deed are endorsed on the back in the space provided, as shown on the back of the certificate forms produced on pages 76-9.

A balance ticket for the remainder of the shares will be prepared and handed to the broker who requires certification of the transfer. Against this balance ticket, he will in all probability effect further sales of the shares contained in the certificate already lodged, when he would present additional transfers for certification, but he must produce the balance ticket to be exchanged for a fresh one if there is still a residue from the certificate first lodged, remaining in the transferor's favour. The "certified" deeds have now to be forwarded by the broker to the broker acting on behalf of the transferee, who will have the deed duly completed as regards signature, attestation and stamping, when it will be returned to the Company for the purpose of registration in the Register of Transfers and for presentation to the Board. If no further sales of shares are effected against the last balance ticket issued, this ticket will be surrendered to the Company to be exchanged for another ticket entitling the transferor to a fresh certificate for the shares which have not been transferred, or, as in some Companies' practice, the ticket to be surrendered is endorsed across the face in red ink and signed by the Registrar or other responsible official to the effect that a certificate will be prepared for the balance of the shares and the date given when the certificate may be exchanged for the endorsed ticket.

Having considered what a deed of transfer actually is, and briefly dealt with its legal status, and the regulations generally to be found concerning it in the average set of Articles of Association, we will now devote our attention to the matters connected with the actual registration of a transfer.

At the outset, it will be well to point out that the entry of a transfer deed in the Register of Transfers would not by any means

# Form 66.

## REGISTER OF TRANSFERS

No. of Deed.	Date of Registration.	Transferor.		Transferor's Register Folio.	Amount of Debentures Transferred.	Trans-	
		Surname.	Christian Name.			Surname.	Christian Name.
18	19... Oct.	Akroyd, Sir	William	37	£500	Akroyd, Lady	Christina
19	"	Glyn (Major)	Eustace M.	16	£100	Colwyn	Reginald — Joseph
etc.	etc.	etc.	etc.	etc.	etc.	etc.	etc.

NOTE.—This form of Transfers Register is also very suitable for purposes where shares have been converted into stock.

## OF DEBENTURES.

Transferee.		Transferee's Register Folio.	Consideration.	Remarks.
Address.	Description.			
The Towers, Pen-y-Cread, Merionethshire	Wife of Sir Wm. Akroyd	81	£ 500 0 0	Passed by the Board, Oct. 24th, 191... J. O. } Directors. J. W. }
The Manor Ho. Peebles Bay, Ross.	General H.M. Army	92	100 0 0	Passed by the Board, Oct. 31st, 191... J. O. } Directors. J. W. }
etc.	etc.	etc.	etc.	etc.

**Form 67.**

*Specimen of Balance Ticket to Transferor*

**No. 19**

**No. 19**

**Date** 2nd October, 19...

**THE CONSOLIDATED LOAMSHIRE COLLIERIES CO., LTD.**

**Shareholder's Name** G. H. Butcher.

**BALANCE TICKET TO TRANSFEROR.**

**Shares due on balance**, 50 Preference.

**Distinctive Numbers** 38851 to 38900

19 Milk Street,

Walbrook, E.C.

2nd October, 19...

inclusive.

**Ticket issued to—**

Wein & Baum,

250 Capel Court, E.C.

**Ex old Certificate No.** 409 for

200 Preference Shares

Messrs. Wein & Baum,

250 Capel Court, E.C.

For the Consolidated Loamshire Collieries Co., Ltd.,

Ralph Thesiger,

Registrar.

**New Certificate** 17/10/1...

The Shareholder named hereunder is entitled to the shares herein specified:—

Shareholder's Name G. H. Butcher.

Shares due to him on balance 50 (fifty) Preference, numbered 38851 to 38900 inclusive.

This ticket is issued to—

NOTE.—Further transfers against this balance can only be certified upon the production of this ticket to be surrendered in exchange for the remaining balance, if any. If no further transfers are certified or registered before the 10th inst., a new certificate will be prepared and can be exchanged for this ticket on October 17th, 19...

Transfer Office hours : 11 to 2 Saturdays, 11 to 12

imply that the transferee has become a member of the Company. The appearance of his name in this book is simply a preliminary to the entry in the Members' Register, where it would not appear until the deed had been approved by the Board of Directors, or a Committee of the Board constituted for the purpose of dealing with such matters. The function of the Transfers Register may be said to be a dual one, inasmuch that it serves as a means of marshalling the transfers put forward for the sanction of the Directors, and it also takes the part which the journal plays to the ledger as a book of entry for posting purposes, only in a more elaborate form and one requiring a great deal more care in manipulation, containing as it does a much greater amount of important detail pertaining to each transfer.

It will be seen that the form of ruling adopted for the Register of Transfers provides for the inclusion of all the matter which the deed itself contains; indeed, it epitomises, so to speak, the whole of the transfers which pass before the Board for their consideration. If the Secretary, or the responsible official whom he may entrust with the duty of receiving and examining transfers left for registration, is satisfied that the deed has been properly executed, witnessed, and bears the requisite amount of stamp duty (see *infra*) impressed upon it, he enters it in the Register, giving it a number for purposes of identification and filing. Where a large number of transfers are received, there is no better means of numbering them in strict numerical rotation than by means of the small hand-numbering machines similar to those used by printers but now largely used in offices. These are extremely simple to use, and can be made to produce the serial numbers in duplicate or triplicate, thus being useful for many other purposes in an office where all sorts of filing have to be done. Moreover, they are very reasonable in price. A deed numbered with one of these machines is much neater and its number probably much more legible than in the case of a transfer filed away in the orthodox manner with a blue pencil number scribbled over it.

If the transfer has not already been presented at the office for the purpose of certification, it must be accompanied by the share certificate. Upon the acceptance of the transfer for presentation to the Board, this certificate is immediately stamped across the signatures of the Directors and Secretary with the cancel stamp,

and upon the back of it are entered the particulars of the transfer. This may seem superfluous to the lay mind, as the full details of the transfer already appear in the register. It is essential, however, that close attention should be paid to this matter, because all certificates which are cancelled must be filed and preserved as carefully as the deeds themselves; and the information appearing on the back of such certificates must contain details corroborative of those entered in the Transfers Register and the Register of Members. Where the deed has gone through the process of certification, its existence will already be noted on the certificate. It will, in such cases, be necessary to enter only the number which has been assigned to the deed now that it has been presented for registration.

The form of ruling given in our specimen Transfers Register (Forms 64, which are shown on pages 150-1) will be found to meet all requirements. Unless the Company is a small one, it will be better to have distinct books for the different classes of shares, adopting the same colour binding for the books as is used for the shares ledgers of the same classes. The same ruling will, of course, serve, unless any class of the capital has been converted into stock, when the registers, whether transfer, or share, may with advantage be modified to economise space and lessen the bulkiness of the books, which can never be too small consistent with giving all the necessary information.

With the great majority of Companies, the practice is to prepare the share certificates for transferees and for balances to transferors, where required, when presenting the transfers to the Board for approbation. In a very few Companies, a custom obtains of passing the transfers at one meeting and signing and sealing the certificates pertaining to them at the next. We not infrequently find sub-committees of the Directors meeting for the purpose of passing transfers when share certificates are dealt with at the subsequent meeting of the full Board, the Committee reporting to their colleagues in general on their transactions. Where Directors do not exercise very unusual powers with regard to the acceptance or refusal of transfers, this plan is a very good one, though we may say here that, in general, the Secretary will find that very little restraint will be put upon the free movement of the Company's securities, as the Stock Exchange would not grant a quotation to a Company whose articles conferred upon the Board any unusual or arbitrary powers

Form 68.

*Specimen of Notice to Transferor of Lodging of Transfer*  
*Urgent.*

THE CONSOLIDATED LOAMSHIRE COLLIERIES CO., LTD.

*Re Transfer Deed No. 93.*

NOTICE OF TRANSFER OF SHARES.

19, MILK STREET,  
WALBROOK, E.C.,  
2nd October, 19 .

Dear, Sir,

I have to inform you that a deed of transfer purporting to be signed by you and executed in the name of *Miss Sylvia James* as transferee, for 150 *Preferred Shares* has this day been deposited at these offices for registration by *Messrs. Wein & Baum* of *250 Capel Court, E.C.*

Unless I hear from you per return of post, I shall assume the above named transfer to be in order, and it will consequently be brought forward at the next meeting of the Board for registration.

I am,

Your obedient Servant,

*Alphonse Rashleigh,*

*Secretary*

To *G. H. Butcher, Esq.,*  
*5 Clarendon Villa,*  
*Teddington.*

concerning the refusal of transfers. If the Articles are silent on the subject of refusing transfers, the Board may not refuse a transfer unless it is one purporting to contain a trust as the transferee, which by the statutes (Act 1908, sect. 27) no Company may enter upon its Register of Members. The Articles however, almost certainly will give the Directors some powers in this direction, most probably to the extent of those conferred by the sections of the revised Table A which we previously briefly considered. There is nothing on this point contained in the new Table to which the Stock Exchange Committee would take exception. There are not a few Companies whose Articles empower the Directors to refuse any transfer without requiring them even to give a *reason* for such refusal. Such cases are, however, not numerous in other than private Companies.

A form of notice should always be sent to the transferor whenever a transfer is deposited for registration, giving the name of the person or firm of brokers leaving the deed for registration, and the name of the transferee, and requiring the shareholder to reply per return of post if the deed is irregular. Further, it will be seen from an inspection of the specimen of this notice which we produce in Form 68, page 199, that, unless the transferor fails to make such notification by return of post, the deed will be put forward and the transferee's name entered upon the Company's Register of Members.

Many offices send out this form as a letter which is typewritten in copying ink and press-copied into a letter book especially kept for the purpose. A better plan is to have the forms typed-in in duplicate on the typewriter, the carbon copies being filed away in their serial order—the same numerical rotation and the same numbers being used as appear upon the transfer deeds in connection with each notice. When a number of transfers are registered against one certificate, it will be necessary to send only one of these notices known as “Transferors’ Advice.” The notice in such a case would merely intimate that a given number of deeds had been lodged for a certain quantity of shares, giving the broker’s name only—the spaces reserved for the names of the transferees being filled in with the words “sundry persons.” Some Company officials take the trouble to enumerate on the back of the notice a whole list of transfers, but this is quite unnecessary. The Company has quite sufficiently protected itself by merely giving notice to the transferor that a certain number of his shares are about to be transferred. These



Specimen of Transfer Deed Receipt

No. 49

Date October 2nd, 19 .

No. 49

THE CONSOLIDATED LOAMSHIRE COLLIERIES CO., LTD.

No. of Deed 93.

Transferor G. H. Butcher.

Transferee Sylvia James (Spin.).

No. of Shares 150 Preference.

Do. distinctive numbers 38701-38850 inclusive.

Fees paid 2s. 6d.

Deed left by .

Weth & Baum,  
250 Capel Court, E.C.,  
S. Brokers.

No. of certificate 409 for  
: 200 Preference Shares.

(See balance ticket No. 19.)

New Certificate ready 17/10/1...

Transfer Office hours: 11 to 3.  
Saturdays, 14 to 12.

RECEIPT FOR TRANSFER DEED.

19 Milk Street,  
Walbrook, E.C.,  
2nd October, 19

Deed No. 93.

Transferor G. H. Butcher.

Transferee Miss Sylvia James.

Shares 150 Preference, numbered 38701 to 38850 inclusive  
Certificate deposited No. 409 for 200 Preference Shares.

By Messrs. Wein & Baum,  
250 Capel Court, E.C.

For the Consolidated Loamshire Collieries Co., Ltd.,  
Ralph Thesiger,  
Registrar.

NOTE.—The above transfer deed is held subject to the approval of the Board of Directors.  
Certificates for the above shares will be ready on the 17th October, 19 , but will only be handed over in exchange for this ticket.

advice notes to the transferor must be prepared and sent off without any delay, certainly not later than the day on which the deeds are left at the office.

A transfer receipt will be handed to the person lodging the deed for registration. A specimen of this receipt is given on page 201 in the form found to be most serviceable, *i.e.*, in counterfoils, these being bound up as an ordinary receipt book. One receipt will serve for a number of deeds left by the same person, but different receipts should be given for different classes of shares, or confusion may ensue. If a receipt is made to serve for more than one deed, the particulars of each deed as to aggregate and distinctive numbers of the shares and the transferees' names should be entered on the back of the receipt.

It is usual to allow an interval of seven, or fourteen days after giving a receipt for transfers before the certificates can be exchanged for them. The general practice is to give upon the receipt itself a date when the certificate can be called for, as shown upon the specimen receipt.

The same form of "balance ticket" may be used as that described for the purposes of certification. The specimen produced (on page 196) will explain itself on inspection. The greatest care must be given to the preparation of all these tickets before they are issued in exchange for transfers, or the gravest consequences may arise. The aggregate and consecutive numbers of the shares must be carefully checked, and the signature of the transferor appearing on the deed should be compared with the same signature appearing upon the member's application form or upon the deed by which he acquired the shares. When the tickets are returned for exchange, they should be pasted on to the counterfoils, and the number of the certificate issued written upon them. No certificate should be issued unless the tickets are surrendered. If these have been lost, the parties responsible should give a letter of indemnity before the certificates are handed over.

No transfers should be accepted containing more than one class of shares. Small brokers sometimes attempt this. It will obviously be a difficult matter to deal with such deeds, as they have to be entered into separate registers for each class of share.

## CHAPTER XXIV

### <sup>1</sup>TRANSMISSION OF SHARES

THE property in shares passes, as has previously been pointed out, by means other than those which we have been reviewing. Shares pass from a deceased shareholder's account either to a specified legatee or to be held in trust by the shareholder's executors. This is given effect to by the presentation at the Company's Registered Office of the Will of the deceased member, the Will having been passed by the Probate Registry of the Inland Revenue authorities, or, if the deceased has died intestate, by the production of Letters of Administration which have been granted to the legal representatives.

The proper course to adopt with regard to such documents is to make a note in the Register of Members, above the account of the member, giving the general purport of the document as to names of legatees, executors, or, in the case of Letters of Administration, the names of the persons to whom the administration of the estate has been granted. At the same time, an entry giving the same particulars will be made in the Register of Documents, with precise details as to whom the documents have been returned, whether a firm of solicitors or the deceased's representatives named in the Will or Letters.

If the shares of the Company are specifically left to a legatee named in the Will, a transfer must be lodged by the executor and the legatee, the old certificate being cancelled. Where the deceased's affairs are to remain in the hands of executors two courses are open to the executors. They can be noted in the Register in the manner described above or they can be registered as members in their own names, in which case they become *personally* liable for any calls that may be made; they would in fact become liable in common with other members, whilst, on the other hand, they would exercise all the privileges of membership.

The procedure in regard to Parliamentary Companies is very different from that followed by Companies under the Act of 1908. The Companies Clauses Act, 1845, sec. 18, requires all Companies covered

<sup>1</sup> See Appendix F regarding transfers to enemy subjects.

by that statute to enter the names of members' representatives upon the Register thus conferring rights and imposing duties of membership upon them, and there is no recognition of a representative until this has been done. It would be a contravention of section 27 to register the deceased representatives as trustees, as a trust may not be entered in the Register; nevertheless, the executors or administrators are deemed to be the personal representatives of the deceased member, and those representatives are empowered to sell or dispose of the shares. A fee is charged by most Companies for the registration of all documents relating to the shares held by deceased members. The fee for this purpose is usually two shillings and sixpence; in some instances, five shillings for each registration is charged.

It will be well to provide a form similar to that given, which must be filled in and signed by the legal representatives of deceased shareholders. This form should be signed by each of the persons entitled to administer the estate and by the firm of solicitors acting on their behalf, if any. The forms, when completed, should be filed in a separate file for ready reference.

A rubber stamp should be procured for the purpose of marking all Probates or Letters of Administration, showing that they have been presented to, and noted by, the officials of the Company. This stamp should be as small as possible, as it will sometimes have to be used to make an impression in odd corners on some of these important papers. It should be in this form:—

THE ALPHA BETA COMPANY, LTD.		
<i>Registered this</i>	<i>day of</i>	19
<i>R.D. folio</i>		<u><i>Secretary.</i></u>

The document having been carefully perused and compared with the information which has been inserted in the form provided by the Company, the stamp will be impressed upon the document, the latter being then signed by the Secretary or the Registrar and returned to the person presenting it for registration. Should new certificates be required in consequence of the demise of the member, a date must be given when they may be exchanged for the old ones, as in the case of transfers.

## Specimen for Probate Registration

No. 5

## THE CONSOLIDATED LOAMSHIRE COLLIERIES CO., LTD.

FORM FOR REGISTRATION OF PROBATE OF WILLS OF  
DECEASED SHAREHOLDERS.

Name, address, and description  
of the deceased member..... { *Annette Beauchamp,*  
14 Clarence Drive,  
Bexhill,  
Sussex.  
Widow.

Number of Shares held and  
distinctive nos { 500 Preference Shares, Nos. 11501  
to 12000 inclusive.  
150 Ordinary Shares, 72001 to  
72150 inclusive.

Date of Death..... 19th September, 19...

Date of proving the will at { 10th October, 19...  
Probate Registry ..... {Whether above Shares devolve  
upon specified legatees, and, { No.  
if so, their name or names.... {

Executors { (Name *Tancred Oakley,*  
Address 19 Gray's Inn, W.C.,  
Occupation Solicitor.  
Name *Barclay Johnstone*  
Address 4 Milk Lane,  
Cheapside, E.C.  
Occupation Chartered Accountant  
Name  
Address  
Occupation

Probate Exhibited by *Tancred Oakley & Sons,*  
*Solicitors.*

Date 11th October, 19... 19 Gray's Inn, W.C.

Usual signature of Executors *Tancred Oakley.*  
*B. Johnstone.*For Office  
use only.Examined by  
*G. H. Gray,*  
*Registrar.*Entered in *Pref. folio 198*  
Share Register *Ord. folio 121.*Fees  
paid  
*2s. 6d.*

The only section in the Statutes affecting the shares of deceased persons is to be found in the Companies Act, 1908, sec. 29 of which provides that "A transfer of the share or other interest of a deceased member of a Company, made by his personal representative, shall, although the personal representative is not himself a member, be as valid as if he had been a member at the time of the execution of the instrument of transfer." This provision constitutes the basis upon which the clauses (21 to 23) of Table A are founded. The most important feature of clause 21 is to the effect that the legal representatives of a deceased member holding a share jointly with a surviving member are the only persons recognised by the Company in respect to the holding of those shares. Clause 22 gives any person becoming possessed of the Company's shares by reason of the death or bankruptcy of a member the right, upon the production of such evidence as the Directors may require, to be registered as the owner of the shares, or himself to transfer them in the same manner as the deceased was entitled to do. The next clause confers the right on the new member to claim dividends accruing on the shares, but precludes his right to any other privileges of membership until he is actually registered as a member.

Several important points should be noted in regard to the position of representatives of deceased members. There is a great difference between an executor of a deceased member and an "administrator" of his estate. The former is a person chosen by the deceased and mentioned in his Will as that person whom he appoints to deal with his affairs after death, but in cases where a member dies intestate, and consequently does not appoint a representative, the only recourse to the next of kin of the deceased who desires to undertake and settle up the deceased's affairs, is to apply to the Probate Court for Letters of Administration. As previously described the important distinction between the two representatives, executors and administrators, is that the office of the former may devolve to others by what is known as a "chain of representation," if an executor dies and appoints another as an executor to his estate. For example, where a shareholder dies and appoints an executor who also dies leaving the shareholder's estate unsettled, but himself appointing another as an executor to his own affairs, the English law permits the second executor to

Form 71.

*Specimen Declaration of Marriage of Female Shareholder*

To the Directors of

THE CONSOLIDATED LOAMSHIRE COLLIERIES COMPANY, LTD.

I, the undersigned, *Frances Augusta Coulthurst*, wife of *Henry Courtney Coulthurst*, do hereby declare that I am the person named in the Share Certificate attached hereto, No. 615 for 90 Ordinary Shares numbered 16901 to 16999 inclusive as *Frances Augusta Mildmay*.

I hereby further declare that I was married to the above-named *Henry Courtney Coulthurst*, of 4 Grosvenor Park Gardens, Bayswater, W., Esquire, on the 19th day of October, 19 . A copy of the certificate of this marriage is attached hereto.

I now have to request you to be good enough to forward me a new Share Certificate for the above 90 Ordinary Shares in my new name, and, further, that my new name and address as given above may be entered upon the Register of Members forthwith. I enclose herewith P.O. for 3/6, being 1/- for a fresh certificate and 2/6 your fee for registering this my declaration.

(New Signature) *Frances A. Coulthurst*,

(Address) 4 Grosvenor Park Gardens,  
Bayswater.

(Old Signature) *Frances A. Mildmay*.

Date 4th November, 19 .

I hereby declare that the above statements are correct, and that *Mrs. Frances A. Coulthurst* was personally known to me before her marriage.

*Gerald R. D. Dugdale,*  
•• M.D., L.R.C.P.,  
17 Palace Gate,  
Kensington, W.

undertake and deal with the affairs of the shareholder, and this process would go on indefinitely provided an executor is appointed ; but the " chain of representation " would be broken if the executor of the deceased shareholder died and did not appoint an executor. In that event the next of kin of the shareholder would be entitled to apply for letters of administration and so become the administrator of the unsettled affairs of the shareholder.

In cases where deceased members have appointed more than one executor and one of these dies, the affairs of the deceased's estate will vest solely in the surviving executors, and though the deceased executor may have appointed executors for the settlement of his own affairs, they may not take part in the administration of the affairs of the deceased member.

In instances where it is necessary to investigate a " chain of representation," probates of the different Wills must be registered in the usual way in the Company's books. An executor may not resign from his trust so long as he is possessed of his mental or other faculties, and probate will not be granted to any other person except upon his demise. The practice is, however, different in Scotland, where by the process of a " Deed of Renunciation," an executor may divest himself of the duties conferred upon him, and furthermore, he may by a " Deed of Assumption " appoint another to act with him ; but this is not so in English law, where it is not permitted to depute duties to others in a general way, but, of course, agents may be appointed to do any specific act in regard to the administration or disposal of the deceased's affairs and property. As an example, it would be quite competent for an executor to appoint another, by means of Power of Attorney, to sign transfers of shares belonging to the deceased's estate, provided that probate of the Will had first been exhibited and registered in the Company's books.

In cases where a testator has appointed two or more executors and by any cause one of them is prevented from acting at the time when the probate is granted, probate will be granted to those who are able to undertake the duties at the time, and if afterwards the absent executor is available, the Court will grant what is termed a " double probate " which should be accordingly registered in the Company's books upon exhibition ; but care should be taken that the executors first appointed by the former



probate have also been registered, and in every case the various executors must be dealt with in such instances.

In addition to the note made in the member's account in the Register, it is usual to endorse the share certificate representing the deceased's holding to the effect that probate of the will has been exhibited, naming the executor or executors appointed under the Will and the date when such exhibition was effected. This endorsement should be signed by the Secretary of the Company. In no case must the member's name be altered on the face of the certificate. To do so would, in all probability, conflict with sec. 27 of the Act of 1908.

If the representatives of a deceased member effect a sale of a portion of the deceased's holding, the share certificate representing any balance for shares unsold should be made out in precisely the same way as though the deceased were still living, but should be endorsed in a manner similar to that described above.

The general position of a deceased member's representatives is one of some complexity, and in many instances also of considerable doubt. The position of affairs will, to a certain extent, depend upon the construction of the Articles of Association which, as previously pointed out, deal with the situation to some extent; but in general it may be said that most Companies will not confer full privileges upon personal representatives until they have been actually registered as a member, when the deceased's identity automatically ceases, so far as the Company itself is concerned. This was shown in the case of *T. H. Saunders & Co., Ltd.*, 1908, 1 Ch. Where executors elect to be so registered they are of course entitled to a fresh certificate, and any liability, such as unpaid calls which may fall upon their shoulders, can be remedied by an indemnity from the estate they are administering. If a member dies intestate and Letters of Administration have been obtained, it should be noted that if the person who is entitled to apply for such Letters of Administration is under 21 years of age, Letters of Administration are granted to another person for such time as the grantee is under age; such letters are termed "*Administration durante minore ætate.*" On the attainment of the grantee's majority, ordinary Letters of Administration must be taken out and exhibited to the Company for noting. Then again, where the estate of a deceased member is subject to any litigation in regard to the

validity of a Will or for revoking a probate or granting administration, special Letters of Administration termed "*Administration pendente lite*" are granted which for obvious reasons are only in force so long as the litigation remains unsettled. There is yet another form of Letters of Administration granted by the Court, known as "*Administration durante absentia*" which are only issued where a person named as sole executor or administrator is abroad and so is unable to act. The most important variation from the ordinary Letters of Administration is that known as "*Administration de bonis non*" which is granted in cases where a representative of a deceased member dies. To persons who establish next-of-kin relationship to a deceased member, the administration is granted and they are vested with the same powers as formerly rested upon the original or former representative. Cases occasionally arise, where before a deceased member's estate has been settled the representative dies and Letters "*de bonis non*" have been taken out; in such cases it is necessary for the Secretary to observe that proper registration has been made of the original probate, or Letters of Administration, and cross references must be made in the Register of documents indicating the relationship to the various entries.

The question of representation of a deceased joint holder also requires some consideration in view of the fact that in practice joint holdings are of frequent occurrence. It would seem that where shares stand in the name of two or more holders and one of them dies, it rests with the survivor or survivors to register with the Company some evidence of death, such as a death certificate, or probate, after which by process of survivorship the property in the shares is vested solely in the survivor or survivors of the joint holding. Therefore in such instances proof of death is all the Company need concern itself with, and the practice is, that the certificate in such cases is merely endorsed to the effect that the demise of one of the joint holders was proved by production of certificate of death, or as the case may be, giving the date and signature of the Secretary or other authorised officer, to whom the documentary evidence was produced.

Where the estate of a deceased member is extensive and covers property in various parts of the United Kingdom or any other parts of the Empire, great care must be exercised in seeing that the probate or Letters of Administration have been sealed in the

Probate Courts of England and Ireland respectively or the Commissary Court of Scotland as the case may be. If it appears that a document of this description bears the seal of only the English Court and property is mentioned in it as being situated in Ireland or Scotland, the document will require re-sealing in the respective courts. This would also be the case if probate or Letters of Administration were issued from either of the three parts of the United Kingdom and the estate covered property not represented by the respective courts. As regards estates covering property within the British Dominions, the Colonial Probate Act, 1892, section 2 (1) provides that the effect of sealing probate in the Courts of the Dominions will have effect in the United Kingdom if re-sealed in either of the three courts of London, Dublin and Edinburgh respectively and *vice versa*. These facts are mentioned to point out the great desirability of exercising care in the perusing of probates and Letters of Administration, for not only would the documents themselves be invalid as far as the shares of a Company is concerned, but in regard to the documents themselves, in so far as they affect property situated in either of the three divisions of the United Kingdom or the Imperial Dominions.

The shares of a bankrupt member will stand in the name of his trustee or the Official Receiver when due notice from the Court has been given. The same rule applies to persons of unsound mind whose affairs are administered by the Commissioners of Lunacy or a committee duly appointed to that end. In both cases, entries are made in the shareholder's account in the Register giving the names of the persons who are to receive notices, dividends, etc.

Upon the marriage of female members, the production of a copy of the Certificate of Marriage is required for inspection and registration in the books, the fees chargeable in these instances being the same as for the registration of a Will, in addition to a charge for the new certificate bearing the lady's new name. The one issued in her maiden name will, of course, have to be surrendered and cancelled. For the purpose of effecting such alterations in the names of female members, a form similar to Form 71 on page 207 should be forwarded to her to be filled in and signed, both with her old and new signature, and should give her husband's full name and occupation or description. If the shares are not fully paid, the Directors might quite reasonably expect the lady to require the husband to guarantee

the unpaid calls, or in the alternative to become a joint holder of the shares. In some companies this is not insisted on, the directors merely require the endorsement of the share certificate upon production of the marriage certificate.

Shareholders, when long resident abroad or for other reasons, sometimes give a Power of Attorney to some person whom they appoint as a representative, the instrument fully setting out the powers delegated to the holders. When presented, these particulars should be entered in the Register of Documents and the Power of Attorney stamped and noted as shown on the previous page as in the case of Probates, etc. From an inspection of the specimen of the Register of Documents, the mode of entering these and other papers will be easily seen.

This chapter, although purporting to deal solely with the question of Transmission will, as the reader has probably gathered, also cover the question of representation of members generally. We mentioned the case of bankrupt and lunatic shareholders at a former stage and also the change of state in regard to female members, but in reference to the question of Powers of Attorney a little further consideration is necessary, for in this case we are dealing with the principle of principal and agent. We do not, of course, propose to discuss the question to any great length; there are, nevertheless, several points which the Secretary should keep in mind, especially as the practice of giving Powers of Attorney is very frequently resorted to.

The giver of a Power of Attorney is termed the principal or donor, whilst the person appointed attorney is termed the donee or attorney. The simplest form, which this important document may take is that of the familiar proxy, provision for which is contained in most Companies' Articles, for the purpose of conferring powers upon another member to vote in the place of the person giving the power, but such a proxy is exceedingly limited in its scope and is, as a rule, only available for a certain meeting of members or for any adjournments of it. A Power of Attorney given by a member to another person, which gives the donee the right to act in the stead of the donor in the performance of such acts as receiving dividends, transferring shares or paying calls on behalf of the donor, requires very careful perusal when presented to the Company's officials for exhibition and registration. Furthermore

**Form 72.**

**REGISTER OF DOCUMENTS.**

Date when Received.		Nature of Document.	Parties thereto.		Where Filed or to whom Sent.
1911. April 1st	April 8th	Agreement copy for sale and purchase of business.	The Company	J. K. and L. M., vendors to the company.	Original filed at Somerset House, certified copy in deed box.
April 29th	May 5th	Agreement and copy appointing A. B. as American manager.	The Company	A. B. as the company's agent in America.	Original in deed box. Copy handed to Mr. A. B.
April 1st	May 5th	Policy of insurance No. 151611, covering fire risks in company's property in Gun Wharf, E.C.	The Company	The Guarantee Assurance Co.	In deed box.
May 19th	May 26th	Probate of Will appointing J. J. and D. D. the executors to the said J. B.	Julius Rubens, deceased. etc.	John Jones and David Davis, of 19 Milk St., E.C. etc.	Returned to E. F., solicitor, 29 Gray's Inn, after entry in Share Register, fo. 310. etc.

a great distinction must be drawn between any special terms directing the performance of any duties on the part of the donee, and a more or less unrestricted instruction to act on behalf of the donor, for in the case of *Hooper v. Godsell*, 1870, 5 Q.B. 422, it was shown that the provision for performing special acts would override any provision for the performance of acts generally. Care therefore must be taken to investigate very closely the provisions of these documents.

A Power of Attorney must always be in writing and where the donee is empowered to execute deeds the instrument must be under seal. The signature of the donor must be attested and if made abroad the attestation should consist of two witnesses, one of whom should preferably be a Notary Public or British Consul. The instrument can be revoked verbally, whilst if the power is not given for valuable consideration it will be competent for the donee to renounce his right to act under the power at any time, and where the attorney becomes a lunatic or dies the powers conferred under the instrument immediately cease, excepting in such cases where a substitute may be mentioned, but this is unusual. If a power is granted for a specified period or until such time as the happening of a certain event, such as the return of the donor from abroad, due note must be taken of the facts, and in instances where the duration of the appointment is indefinite, some steps should be taken to get into touch with the donor to ascertain whether the instrument is still in force.

If its Articles permit, a Company holding shares in another Company may by granting a Power of Attorney appoint any person to vote on its behalf at general meetings or to act on its behalf in any other manner in respect to the shares held by the Company, but a holder of shares other than a Company could not do this, as the Articles of Association almost invariably prohibit the giving of proxies to any save other shareholders.

It will be found that, in instances where Debentures or Debenture Stock form part of a Company's capital liabilities, different forms of transfers and transfer registers will be needed. We have, therefore, given on page 185 specimens of a transfer deed dealing with the transfer of Debentures and also on pages 194-5 a suitable ruling for a Debenture Transfer Register.

## CHAPTER XXV

### ANNUAL RETURN—REGISTER OF DIRECTORS

AFTER the holding of the first ordinary General Meeting in each year, all Companies are required by section 26 of the Companies Act, 1908, to file a return upon the form prescribed and known as Form E in the schedule, showing :—

(1) The names, addresses and occupations of all persons who are, or have been, members of the Company since the last return, giving the number of shares of each class either held or transferred at the date of the return and the dates when transfer deeds were registered.

The summary is to contain the number and class of shares issued otherwise than for cash, and

- (a) The total amount of the authorised capital of the Company, and the number of shares of each class into which it is divided ;
- (b) The number of shares taken from the commencement of the Company up to the date of the return ;
- (c) The amount called up on each share issued ;
- (d) The amount of calls which have been received ;
- (e) The amount of calls remaining unpaid ;
- (f) The amount of commission allowed for shares or debentures issued since the previous return ;
- (g) The total number of shares forfeited ;
- (h) The amount of shares or stock outstanding at date in the form of share warrants to bearer ;
- (i) The amount of such warrants both issued and surrendered since the last return ;
- (k) The number of shares or amount of stock represented by each of such warrants issued ;
- (l) <sup>1</sup>The names, addresses, and descriptions of the Directors of the Company acting at the date of making the summary. This list, hitherto prepared separately, but filed at the same time as the annual return, is now incorporated with it, forming the third page.
- (m) The full amount of any sums owing by the Company carrying a charge against its assets.

<sup>1</sup> Amended by Companies (Particulars as to Directors) Act, 1917.

Further to these requirements, the newer legislation makes it incumbent upon all Companies with a membership greater in number than fifty, such membership not reckoning any employees or ex-employees of the Company who may be shareholders, to file a statement with this Annual Return setting out in full the particulars of their assets and liabilities, though such statement need not include any details of the amount standing to the debit or credit of profit and loss. The Somerset House authorities have made provision for these particulars in the amended Form E, the whole of the second page of this form being set apart for the purpose of showing the Company's financial status. The statement must be accompanied by the auditor's certificate without which the return would not be accepted by the Registrar. In most cases the printed balance sheet, with the certificate, is pasted on the space set apart, any details as to recent valuations, etc., being given separately. It will perhaps be advisable to consider what the actual provisions of subsec. (3), sec. 26, really amount to. The statement is to give in balance sheet form a summary of its share capital liabilities and assets in such a way as will leave no doubt as to the nature of the assets and liabilities. Moreover, any available information must be vouchsafed in regard to the method of arriving at the value of the fixed assets, *i.e.*, whether at cost or as acquired from the vendor, and if subjected to deductions for wear and tear for depreciated values. Where a valuer has recently (since the last return) appraised the fixed assets, some reference should be made at the foot of the statement giving the valuer's name and the amounts given in his valuation. It will be noticed that the statutes do not require any statement of profit and loss account in this statement of the assets and liabilities; this does not mean, as some have supposed, that the *balance* of profit and loss account may be omitted. It is obvious that such a balance must be either an asset or a liability, and must consequently be shown. The important case of *Schill, Seaborn & Co., Ltd.*, brought before the stipendiary Magistrates' Court at Manchester and afterwards by the Board of Trade before the High Court (1912, 2 K.B. 354), must be mentioned here. The Company presented for filing their annual report in 1911, the statement "in the form of a balance sheet" merely containing one item embracing "goodwill, trade marks, machinery, furniture and fixtures" against which one sum was



placed. The Company contended that they had fulfilled the requirements of sec. 26 (3), which the magistrate upheld. The Board of Trade were not satisfied with this ruling and applied to the magistrate to state a case before the High Court for opinion. The Court held that the Company *had not* complied with the subsection and ruled that the several assets should be given separately with their values in each case.

The return giving this information as to a Company's constitution is to be made up as on the fourteenth day succeeding the date of the General Meeting. Where more than one General Meeting has been held in the course of the year, the return is to be made after the first meeting. The Return will have to be made in the first instance after the first General Meeting of the Company, not the Statutory Meeting. It must be signed by the Secretary or Manager and filed within seven days after the date upon which it has been compiled, *i.e.*, twenty-one days after the date of the meeting.

A penalty of five pounds per diem is imposed for non-compliance with these requirements, every Director or Manager who knowingly permits such default being liable (sec. 26, Companies Act, 1908). Proceedings have frequently been taken by both private individuals and the Board of Trade for negligence in this matter, resulting, in many cases, in heavy fines being imposed.

The Companies Act, 1913, calls upon such companies as come within the meaning of sec. 121 of the Act of 1908, or private Companies, to state on their annual return by means of a certificate signed by a Director or the Secretary, that no invitation to the public has been made offering any shares or debentures of the Company for subscription since the filing of the last return, or, alternatively, since the incorporation of the Company. Another certificate signed in the same manner, and upon each occasion, is required, whenever the membership exceeds fifty in number, stating that each member in excess of that number is, or has been, in the employ of the company. These certificates are made in the space provided for the balance sheet, this balance sheet, it will be remembered, is not given by "private Companies."

A fee of five shillings is required for the filing of the Return, which covers the list of Directors filed with it.

The registers being closed for three or four weeks, from a week or ten days preceding the General Meeting, it will be necessary to

start operations to agree them for the purpose of the compilation of this return within the specified twenty-one days. As soon as each register is balanced, in the manner indicated in the chapter dealing with Dividend Lists, the return must be drawn up from the information to be found in the Register of Members, which also forms an index to the whole of the registers. (See page 72.) The number of shares appearing in this register, or index, will be marked in pencil to admit of their alteration as may be necessary from year to year. This is the quickest way to dispose of this troublesome duty and it has the advantage of preventing any member's name appearing twice, in one place for one class of share and in another place for a different class; and, further, the order of the members' names in the return will be alphabetical.

The specimen of Form E appearing on pages 219-23 has been written up from the section of the Members' Alphabetical Register shown on page 72. The reader is recommended to compare the particulars contained in both, when the advantage of adopting these methods will be apparent. The same course would be followed where the list of members is kept on the card index principle, a course we have found preferable; there are, however, a number of practitioners who prefer the separate alphabetical register, contending that it is indispensable on the day of the general meeting, when card indexes are an impossibility.

When completed, the whole return must be copied and filed with the Registrar of Joint-Stock Companies, the copy being carefully preserved in the Company's archives.

By the Companies (Particulars as to Directors) Act, 1917, it is now incumbent on a Company to include in the Annual Return the following particulars regarding directors. (a) Present Christian name or names and surname; (b) any former Christian name or names or surname; (c) nationality; (d) nationality of origin (if other than the present nationality); (e) usual residence, (f) occupations.

**Form 73.**No. of  
Certificate. 016011.**THE COMPANIES ACTS, 1908 TO 1917.****FORM F.**

as required by Part II of the Act (section 26).

A 5/- Companies  
Registration Fee  
Stamp must be  
impressed here.

Summary of Share Capital and Shares of the *Consolidated Loomshire Collieries Company, Limited*, made up to the *nineteenth* day of *September*, 19*17*  
(being the fourteenth day after the date of the First Ordinary General Meeting  
in 19*17*).

Nominal Share Capital, £400,000

Divided into\* { 200,000 *Preference*  
150,000 *Ordinary* Shares of £\* {  
50,000 *Deferred Ordy.*{ *one*  
*one* each.  
*one*Total Number of shares taken up\* to the *19th* day of *Septem-*  
*ber*, 191*7*, (which number must agree with the total shewn  
in the list, as held by existing members.)150,000 *Preference*  
100,000 *Ordinary*  
50,000 *Deferred Ordy.*Number of shares issued subject  
to payment wholly in cash.... { 150,000 *Preference*  
75,000 *Ordinary*

{ 225,000

Number of shares issued as fully paid up otherwise than  
in cash..... {

{ 75,000

Number of shares issued as partly paid up to the extent of  
..... per Share otherwise than in cash..... {{ *Nil*† There has been called up on each of *Preference* Shares£ *one*" " " " *Ordinary*£ *one*" " " " *Deferred Ordy.* "£ *one*‡ Total amount of Calls received, including payments on  
application and allotment..... {

{ £ 225,000

Total amount (if any) agreed to be considered as paid on

75,000 Shares which have been issued as fully paid up  
(otherwise than in cash)..... {

{ £ 75,000

Total amount (if any) agreed to be considered as paid on

75,000 Shares which have been issued as partly paid up to  
the extent of £1 per Share..... {

{ £ 75,000

Total amount of Calls unpaid..... {

{ £ *Nil*Total amount (if any) of sums paid by way of Commission in  
respect of Shares or Debentures or allowed by way of Dis-

count since the date of last Summary..... {

{ £ *Nil*

Total amount (if any) paid on|| ..... Shares forfeited..... {

{ £ *Nil*

Total amount of Shares and Stock for which Share { Shares

Warrants to bearer are outstanding..... { Stock

{ £ *Nil*

Total amount of Share Warrants to Bearer { Issued

issued and surrendered respectively since { Surrendered

date of last Summary..... {

{ £ *Nil*{ £ *Nil*

Number of Shares or amount of Stock

comprised in each Share Warrant to { Number of Shares

bearer..... { Amount of Stock

{ £ *Nil*{ £ *Nil*Total amount of debt due from the Company in respect of all  
mortgages and charges which are required (or, in the case ofa Company registered in Scotland, which if the Company  
had been registered in England, would be required) to beregistered with the Registrar of Companies, or which would  
require registration if created after the first day of July,191*7*..... {

{ £ 39,650

**NOTE.**—Banking Companies must add a list of all their places of business.\* If there are Shares of different kinds or amounts (e.g., *Preference* and *Ordinary*, or £10 and £5)  
state the numbers and nominal values separately.

† Where various amounts have been called, or there are Shares of different kinds, state them separately.

‡ Include what has been received on forfeited, as well as on existing, Shares.

|| State the Aggregate number of Shares forfeited (if any).

The return must be signed, at the end, by the Manager or Secretary  
of the Company.

Presented for filing by

Edward Edwardes,  
19 Milk St., Walbrook, E.C.

# Form 73 (continued).

\* STATEMENT in the form of a Balance Sheet made up to the 30th day of June, 19 , containing the particulars of the Capital, Liabilities, and Assets of the Company.

Capital and Liabilities.			
Capital.	300,000 Shares of £1 each, fully paid	300,000 0 0	Freehold Lands and Buildings in Loamshire .. .. 100,000 0 0
	( Leaving 100,000 Shares unissued.)		£30,000 3 % Consols (at current market rate) .. .. 25,468 13 11
Mortgage Debentures issued on Freehold lands of the Company .. ..	39,650 0 0	Leasehold Property, Buildings, and Wharves in London and Liverpool .. ..	15,000 0 0
Reserve Fund (invested in 3 % Consols per contra) .. ..	25,000 0 0	Steamers and Rolling Stock .. ..	143,614 10 9
Sundry Trade Creditors .. ..	16,481 13 6	Engines and Winding Gear Shafts, Sidings, Loose Plant and Tools .. ..	38,961 3 4
Profit and Loss Account .. ..	12,348 6 1	All the above are book values stated at cost less amounts derived from Profit and Loss Account for depreciation.	
		Stock at pts, wharves, and depôts .. ..	18,481 6 3
		Sundry Trade Debtors .. ..	36,395 19 5
		Cash .. ..	15,558 5 11
		£393,479 19 7	£393,479 19 7

We certify that we have examined the above statement and find it to be a correct summary of the Balance Sheet of the Consolidated Loamshire Collieries, Limited, and to be in accordance with the accounts of the Company as on June 30th, 19 ..

Double Entry & Co.,  
Chartered Accountants,  
Auditors.

\* This Statement is not required to be supplied by a Company which is a "Private Company" within the meaning of Section 221 of the Companies (Consolidation) Act, 1908.

**Form 73 (continued)**

Names and addresses, etc., of the persons who are the Directors of the *Consolidated Loamshire Collieries Company* Limited on the *nineteenth* day of *September*, 19 .

Present Christian Name or Names and Surname.	Any former Christian Name or Names or Surname.	Nationality	Nationality of Origin (if other than the present Nationality)	Usual Residence.	Occupations.
<i>Charles Alfred Kingsley</i>		<i>British</i>		<i>Bowdley Court, Shrewsbury, (Salop) (Chairman)</i>	
<i>Andrew Anderson</i>		<i>British</i>		<i>9 Sparkhill Park, Birmingham</i>	<i>Director of the Midland Banking Corporation</i>
<i>Carlos Capperli</i>		<i>British</i>	<i>Italian</i>	<i>9 Threadneedle Row, London, E.C.</i>	<i>Stockbroker</i>
<i>James Smithson</i>	<i>Oswald Smith</i>	<i>British</i>		<i>Claydale, Co Mayo</i>	<i>Engineer</i>

**Form 73 (continued).**

List of Persons holding Shares in the *Consolidated Loamshire Company, Limited*, on the *nineteenth* day of *September*, the date of the last Return, or (in the case of the first return) of Addresses, and an Account of the Shares so held.

Folio in Register Ledger, containing Particulars.	NAMES, ADDRESSES, AND OCCUPATIONS.			
	Surname.	Christian Name.	Address.	Occupation.
P. 3/81 O. 1/97	Hatchard	William H.	84 Bromsgrove Terrace, Dudley	Optician
P. 2/18	Hayter	Gerald (Deceased)	19 Mincing Lane, E.C.	Drysalter
D. 1/71	Hammond	Sir David	Quilter's Court, Buckton	Knight
O. 3/89	Handwell	Henry	2 Capel Court, E.C.	Stockbroker
P. 1/356 O. 2/66	Hartridge	Eustace, W. D.	1 Copthall Court, E.C.	Do.
P. 2/48 etc.	Hallifield etc.	William etc.	1 Fitzroy Street, W.C. etc.	Gentleman etc.

# Form 73 (continued).

## Collieries,

19 and of Persons who have held Shares therein at any time since the Incorporation of the Company, showing their Names and

### ACCOUNT OF SHARES.

1 Particulars of Shares Transferred since the date of the last Return or (in the case of the first return) of the Incorporation of the Company, by persons who are still Members.

2 Particulars of Shares Transferred since the date of the last Return or (in the case of the first return) of the Incorporation of the Company, by persons who have ceased to be Members.

### REMARKS.

\* Number of Shares held by existing Members at date of Return.†

Number. †

Date of Registration of Transfer.

Number †

Date of Registration of Transfer.

*Pref.* | *Ord.* | *Def. Ord.*  
250 | 100

*Pref.* | *Ord.* | *Def. Ord.*  
20

31 July, 19 "

*Pref.* | *Ord.* | *Def. Ord.*

50

50

26 Aug., 19 "

5000

Executor,  
Henry Sims,  
19 Gray's  
Inn, W.C.  
etc.

10

10th Oct. 19 "

500 | 500

250

16 June, 19 "

1000  
etc.

etc. etc.

etc.

etc. etc. etc.

etc.

150000 | 100000 | 50000

(Signature)  
(Officer)

Edward Edwardes,  
Secretary.

\* The aggregate Number of Shares held and not the Distinctive Nos. must be stated, and the column must be added up throughout, so as to make one total to agree with that stated in the Summary to have been taken up.

† When the Shares are of different classes these columns may be sub-divided so that the number of each class held, or transferred, may be shown separately.

‡ The date of the Registration of each Transfer should be given as well as the Number of Shares transferred on each date. The Particulars should be placed opposite the name of the Transferor, and not opposite that of the Transferee, but the name of the Transferee may be inserted in the "Remarks" column, immediately opposite the particulars of each Transfer.

**REGISTER OF DIRECTORS.**—Section 75 of the Act of 1908 provides that every Company shall keep at its registered office a register containing the names and addresses and the occupations of its directors or managers, and send to the Registrar of Companies a copy thereof, and from time to time notify to the Registrar any change among its directors, or managers. If default is made in complying with this section, the Company shall be liable to a fine not exceeding £5 for every day during which the default continues, and every director and manager of the Company who knowingly and wilfully authorises or permits the default shall be liable to a like penalty. The foregoing must now be read in conjunction with the Companies (Particulars as to Directors) Act, 1917, the effect of which is that the Register of Directors must now contain the information asked for on the form given below.

Form 73a

[illegible]



## CHAPTER XXVI

### PRIVATE COMPANIES

PRIOR to the Companies Act of 1907, the whole of the provisions of which were embodied in the Consolidation Act with some slight modifications, the status of Private Companies had never been defined, and there can be little doubt that, since the statutory recognition of Private companies, great stimulus has been given to the conversion of smaller businesses into this form of proprietorship. It is an interesting fact that the Act of 1907 was concurrent with the first appearance of the Limited Partnership Act. The latter has met with very little support, whilst, as we have stated, the number of businesses which have been converted into Limited Liability Companies of a private character, as defined by the statutes, has been on the up grade year after year.

The provisions of the Act of 1907 were repeated in the Consolidation Act of 1908, sec. 121, and defined as Private Companies such bodies which, by their Articles of Association, restricted the right to transfer their shares and limited the number of members to fifty, but such members as were in the employ of the Company were not to be reckoned in this number. A third provision was made to the effect that a Private Company should not offer any of its shares or debentures to be subscribed for by the public.

An important addition was made to the Statute Book in the form of the Companies Act of 1913, one of the most important provisions of which is to the effect that Companies whose Articles include the provisions of sec. 121 of the Consolidation Act, 1908, quoted above, and who do not comply with those provisions, forfeit any privileges and exemptions conferred upon private Companies. It is, however, open to the Court, temporarily to grant relief if it can be adequately shown that omission to comply with this new Act has been due to inadvertence or accident. The new statute also modifies the provision of sec. 121 of the Act of 1908 to the effect that in reckoning the number of members of a Private Company, not only persons who are at present in the employment of the Company but those who were in such employment and have ceased to be so employed may be excluded; but it should be noticed that the statute makes

no provision for inclusion of such members who have been in the employment of the Company and afterwards become members. It would appear from the wording of the statute that persons taking up membership after employment ceased would be included in reckoning the number of members.

It would seem that in the case of joint holders the holding would be reckoned as one person, so that where a member transfers a parcel of shares to, say, his four daughters to be held jointly, three of these names would not count. An authority points out that this principle admits of the adoption of profit-sharing schemes for Private Companies, but the need for joint holdings is dispensed with by the fact that the 1908 Act expressly excludes persons in a Private Company's employment for the purpose of limitation of membership.

It would be quite competent for any public Company, provided the membership did not exceed fifty, after passing special resolutions making the necessary provisions in its Articles to comply with the statutes, to be exempted from the statutory duties which have to be performed by public bodies.

The advantages enjoyed by Private Companies may be tabulated as follows—

- (a) They need not have more than two members as compared with seven in Public Companies. (Sec. 2, Act 1908.)
- (b) They are required to hold a Statutory Meeting in the same way as Public Companies but they are exempted from filing any report or forwarding a copy of it to members. In this connection the object of the meeting seems to be rather vague and reduces the provision to one of mere formality. (Sec. 65.)
- (c) The Directors are not called upon to file a consent to act in that capacity when filing the Memorandum of Association, nor are they expected to file with the Registrar any contract in regard to taking shares in the Company. (Sec. 72.)
- (d) They are not required to file a prospectus or scheduled statement in lieu of a prospectus. (Sec. 82.)
- (e) There is no provision as to a minimum subscription when proceeding to allotment. (Sec. 85.)
- (f) They are permitted to commence business immediately after the date of incorporation and are consequently not

prohibited from commencing business until a certificate to do so is granted as in the case of public Companies. (Sec. 87.)

- (g) They are exempted from including in the annual list and summary any statement in the form of a balance sheet, but by the new Act of 1913, sec. 1 (3), Private Companies are now required to give a certificate with the annual return, signed by the Secretary or a Director, to the effect that the Company has not since the date of the last return, or, in the case of a first return since it was incorporated, made any public offer for subscription of its shares or debentures. Should the list of members disclose the fact that the total number is above fifty, the certificate must also state that the excess consists wholly of persons who are or have been in the employment of the Company. This certificate is usually made in the space provided for on the back of the front sheet of the return, which is used for the purpose of including the balance sheet in the case of Public Companies. There is no compulsion to send balance sheets of the Company or reports of the Auditors to preference shareholders or debenture holders, as distinguished from ordinary shareholders of the Company; nor do preference shareholders or debenture holders possess the right of inspecting the balance sheets. (Sec. 114.)

## CHAPTER XXVII

### “ RECONSTRUCTIONS ” AND LIQUIDATION

THE first of the two terms appearing in the above heading is something of a misnomer: the “ reconstruction ” of a Company generally implies its liquidation also. The objects of reconstructing a Company are many. It may be for the purpose of raising additional capital with a view to widening its sphere of operations: it may be desired to amalgamate with another or a number of other concerns, thus merging the several businesses into one new Company. Again, it may be sought to induce a compromise with the Company's creditors whereby their claims upon the old concern would be converted into shares or debentures in the new. Another instance is where it is desired simply to readjust its share capital: other cases, though less frequent, are those in which a given Company having achieved considerable success, is paying huge dividends to its members, and seeks to sell the business to a new Company with a vastly inflated capital, in whose balance sheets the item of “ Goodwill ” will stand for a very large sum, often overshadowing the other assets.

Companies are never said to be “ bankrupt.” When they become hopelessly insolvent, the law steps in and proceeds to “ wind up ” the degenerate by a process of involuntary liquidation, an Official Receiver being appointed by the Court for the purpose. The Companies Acts give three different kinds of liquidation: (a) Voluntary Liquidation; (b) Liquidation subject to the supervision of the Court; and (c) Liquidation solely by the Court. It will be necessary to discuss as fully as possible the conditions consequent upon the shareholders' decision to enter upon the voluntary winding up of a Company's affairs, seeing that, in many instances, the Secretary himself may become the Liquidator. With regard to the other two classes of winding up (which are more of an obligatory nature so far as the members are concerned, and would only supervene in cases of insolvency and the neglect of the Company either to pay its debts or to endeavour to make any compromise with its creditors), we will deal with these as fully as possible, later.

The Companies Act of 1908, section 182, states that a Company may be wound up voluntarily,

- (1) When the Articles of the Company give any date, or name the occurrence of any event, when the Company shall be dissolved, and the members have in General Meeting passed a resolution to that effect ;
- (2) By the passing of a Special Resolution for voluntary liquidation of its affairs ;
- (3) When the Company has passed an Extraordinary Resolution to the effect that it has been proved that it cannot continue its business, through its inability to satisfy its liabilities, and that it has been found necessary to wind up its affairs.

The first of these three conditions under which a voluntary winding up may be brought about is very uncommon. The second condition indicates the procedure most likely to be followed. By following the third method, the Company's affairs would, of course, have gone below the point of solvency.

It will be observed that in practically all cases an Extraordinary or a Special Resolution is required to place a Company into liquidation. The Resolution is required to be "Gazetted," i.e., it must be advertised in the *London Gazette* if the Company is an English one, in the *Edinburgh Gazette* if Scotch, and in the *Dublin Gazette* if registered in Ireland. This is required by section 185 of the Companies Act, 1908. The Resolutions when passed are to be registered at Somerset House in the usual way.

The Liquidator or Liquidators may be appointed by the Company in General Meeting at the time of passing the Resolution to wind up : the appointment and the remuneration may form part of this Resolution, though it is more usual to embody these in a separate Resolution. This is perhaps the most convenient way, as it is not necessary to give notice of the intention to appoint a Liquidator, inasmuch as it can be effected by ordinary Resolution at any shareholders' meeting properly convened for the purpose of dealing with and settling the proposition to wind up. This cannot, however be done until, in the case of a Special Resolution, the confirmation thereof at the second meeting required to be held, after the proper lapse of time. Section 190 of the Act of 1908 provides that the Liquidator's appointment may be delegated to the Company's

**AFFIDAVIT VERIFYING STATEMENT OF  
LIQUIDATOR'S ACCOUNT.**

Insert here  
the title of the  
Company.

*The Kampchatka Goldmines*  
**LIMITED.**

 *Cornelius Mannering*

of 95 Winchester Mansions, Old Broad Lane, London, E.C.,  
the Liquidator of the above-named Company, make Oath and  
say—That *\* the Account hereunto annexed, marked B, contains  
a full and true Account of my Receipts and Payments in the  
winding up of the above-named Company from the fourteenth  
day of January, 19 , to the fifth day of May, 19 ,  
inclusive, \* and that I have not, nor has any other person by  
my order or for my use during such period, received or paid any  
moneys on account of the said Company \* other than and except  
the items mentioned and specified in the said Account.*

I further say that the particulars given in the annexed Form  
92, marked B, with respect to the proceedings in and position of  
the Liquidation are true to the best of my knowledge and belief.

Sworn at 986 Pump Court,

Temple, E.C.,

this twenty-fourth day of  
May, 19 ,

} Cornelius Mannering.

Before me John Wright,

A Commissioner to Administer Oaths in the  
Supreme Court of Judicature.

If no Receipts or Payments, strike out the words in italics.  
The Affidavit is not required in duplicate, but it must in every case be  
accompanied by a Statement on Form 92 in duplicate.

**Form 75.**

Number of } 99  
Company }

Form No. 92.

[Re The Kampchatka Goldmines

Limited.

This is the Exhibit marked " B " referred to in the Affidavit  
of Cornelius Mannering

sworn before me this 24th day of May, 19

John Wright,  
A Commissioner for Oaths.]

**FORM OF STATEMENT OF RECEIPTS AND PAYMENTS, AND GENERAL  
DIRECTIONS AS TO STATEMENTS.**

1. Every Statement must be on sheets 13 inches by 16 inches.
2. Every Statement must contain a detailed account of all the Liquidator's Realisations and Disbursements in respect of the Company. The Statement of Realisations should contain a record of all Receipts derived from Assets existing at the date of the Winding-up Order or Resolution and subsequently realised, including Balance in Bank, Book Debts and Calls Collected, Property Sold, etc.; and the Account of Disbursements should contain all payments for costs and charges, or to creditors or contributories. Where property has been realised, the gross proceeds of sale must be entered under Realisations, and the necessary payments incidental to sales must be entered as Disbursements. These accounts should not contain payments into the Companies Liquidation Account, except Unclaimed Dividends (see paragraph 5), or Payments into or out of Bank, or Temporary Investments by the Liquidator, or the proceeds of such investments when realised, which should be shown separately—

(a) By means of the Bank Pass Book;

(b) By a separate detailed Statement of Moneys invested by the Liquidator, and Investments Realised.

Interest allowed or charged by the Bank, Bank Commission, etc., and profit or loss upon the realisation of Temporary Investments, should, however, be inserted in the Accounts of Realisations or Disbursements, as the case may be. Each receipt and payment must be entered in the account in such a manner as sufficiently to explain its nature. The receipts and payments must severally be added up at the foot of each sheet, and the totals carried forward from one Account to another without any intermediate balance, so that the gross totals shall represent the total amounts received and paid by the Liquidator respectively.

3. When the Liquidator carries on a business, a Trading Account must be forwarded as a distinct Account, and the Totals of Receipts and Payments on the Trading Account must alone be set out in the Statement.

4. When Dividends or Instalments of Compositions are paid to Creditors, or a Return of Surplus Assets is made to Contributories, the total amount of each Dividend, or Instalment of Composition, or Return to Contributories, actually paid, must be entered in the Statement of Disbursements as one sum; and the Liquidator must forward separate accounts showing in lists the amount of the claim of each creditor and the amount of dividend or composition payable to each creditor, and of surplus assets payable to each contributory, distinguishing in each list the dividends or instalments of composition and shares of surplus assets actually paid, and those remaining unclaimed. Each list must be on sheets 13 inches by 8 inches.

5. When unclaimed Dividends, Instalments of Compositions, or Returns of Surplus Assets are paid into the Companies Liquidation Account, the total amount so paid in should be entered in the Statement of Disbursements as one sum.

6. Credit should not be taken in the Statement of Disbursements for any amount in respect of Liquidator's remuneration, unless it has been duly allowed by resolution of the Company in General Meeting, or by order of Court.

**LIQUIDATOR'S STATEMENT OF ACCOUNT.**

Pursuant to Section 224 of The Companies (Consolidation) Act, 1908.

Name of Company The Kampchatka Goldmines, Limited.

Nature of Proceedings Voluntary Liquidation.

(whether wound up by the Court, or under the Supervision of the Court, or Voluntarily)

Date of Commencement of Winding Up 14th January, 19

Date to which Statement is brought down 5th May, 19

Name and address of Liquidator Cornelius Mannering,

195 Winchester Mansions, Old Broad Lane, E.C.

THIS STATEMENT IS REQUIRED IN DUPLICATE.

Form 75 (*continued*).

LIQUIDATOR'S STATEMENT OF ACCOUNT PURSUANT TO

REALISATIONS.

Date.	Of whom Received.	Nature of Assets Realised.	Amount.		
			£	s.	d.
19 .		* Brought forward ..			
<i>Jan. 28</i>	<i>The Amalgamated Mines of Eastern Siberia, Limited.</i>	<i>On account of the sale of the Company's business in accordance with the terms of agreement for sale and purchase dated January 16<sup>th</sup>, 19 ..</i>	50000		
<i>April 1</i>	<i>Do.</i>	<i>Balance due on above agreement .. ..</i>	35000		

† Carried forward .. £ 85000 † 0



**SECTION 224 OF THE COMPANIES (CONSOLIDATION) ACT, 1908.**

Date.	To whom Paid.	Nature of Disbursements.	Amount. £      s.    d.		
19 .	.	* Brought forward ..			
Jan. 31	Adolf Shriener  (Give details redemptions here.) etc.	Redemption of ten £100 Debentures .. Interest thereon to date.. of all other such etc.	100 <i>s</i> i	0	0
Feb. 10	The Amalgamated Mines of Eastern Siberia, Ltd.	Amount refunded for payment of trade and other creditors ..	6691	15	8
15	Jacques Wilbraham (Give details to Preference Contributions.) etc.	5000 £1 Preferred Shares at 25/- per share .. of all other payments etc.	6250	0	0
April 11	Gerald Whitehouse (Give details Ordinary Contributions.) etc.	550 £1 Ordinary Shares at £2 5s. Od. per share .. of all payments to etc.	1237	10	0
May 4	Black & White Stationery, printing, etc.	C. Mannering Sundry expenses, fees, postages, etc. ..	39	15	1
. 4	Do. Remuneration ..	Lord Mayor's Hospital Fund Undistributable balance as agreed at meeting ..	78	15	0
			13	15	11
		T Carried forward ..	85000	0	0

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**Form 75 (continued).**

**ANALYSIS OF BALANCE.**

TOTAL REALISATIONS .. .. .	£	s.	d.
.. DISBURSEMENTS .. .. .	85000	0	0
BALANCE .. .. .	85000	0	0
<hr/>			
The Balance is made up as follows :—			
1. Cash in hands of Liquidator .. .. .	£	s.	d.
2. Total Payments into Bank, including Balance at date of commencement of Winding Up (as per Bank Book) .. .. .	85000	0	0
Total Withdrawals from Bank .. .. .	85000	0	0
Balance at Bank .. .. .	—	—	—
3. Amount in Companies Liquidation Account .. .. .	£	s.	d.
4. Amounts invested by Liquidator* .. .. .	—	—	—
Less Amounts realised from same .. .. .	—	—	—
Balance .. .. .	—	—	—
TOTAL BALANCE as shown above .. .. .	£	—	—

[NOTE.—Full details of Stocks purchased for investment and of realisation thereof should be given in a separate Statement.]

\* The investment or deposit of money by the Liquidator under competent authority does not withdraw it from the operation of Section 224 of The Companies (Consolidation) Act, 1908, and any such investments representing money held for six months or upwards must be realised and paid into the Companies Liquidation Account, except in the case of investments in Government Securities, the transfer of which to the control of the Board of Trade will be accepted as a sufficient compliance with the terms of the Section.

NOTE.—The Liquidator should also state—

1. The Amount of the estimated Assets and Liabilities at the date of the commencement of the Winding Up .. .. .	Assets (after deducting Amounts charged to Secured Creditors and Debenture holders)	£38691	4	3
	Liabilities { Secured Creditors .. .. .	£ '768	10	9
	Debenture Holders .. .. .	£ 5000	0	0
	Unsecured Creditors .. .. .	£ 9923	4	11
2. The Total Amount of the Capital paid up at the date of the commencement of the Winding Up .. .. .	Paid up in Cash .. .. .	£33000	0	0
	Issued as paid up otherwise than for Cash .. .. .	£ 2000	0	0
3. The General Description and Estimated Value of Outstanding Assets (if any) .. .. .	Nil.			
4. The Causes which delay the termination of the Winding Up .. .. .	—			
5. The Period within which the Winding Up may probably be completed .. .. .	—			

creditors. If no Liquidator is appointed, the Court will, upon petition by a creditor or contributory, make the appointment. In any case, a Liquidator *must* be appointed (see section 186 (viii) of the Act of 1908).

Upon the passing of an Extraordinary Resolution, or the confirmation of a Special Resolution to wind up, the powers of the Directors as the controlling body of the Company's property and its affairs cease, the business in hand thereafter being dealt with by the Liquidator. The business of the Company will also cease, except any which may conduce to the betterment of the proceedings of liquidation. The assets of the Company will be realised, and the proceeds thereof distributed in proper order, the claims of creditors being, of course, satisfied, before the surplus is divided amongst the contributories in the manner provided by the Articles of Association. The costs of the winding up, including any remuneration due to the Liquidator, are to be paid out of the realisation of the assets in priority to all other claims (sec. 196, Act of 1908). The shareholders may transfer any of their shares in a Company prior to a Resolution to wind up voluntarily being effected, and this may be done even if they possess a full knowledge that such a procedure is contemplated (*Taurine Co.*, 25 C.D. 118). Once the Resolution has been passed or confirmed, as the case may be, no deed of transfer executed after that time will be valid except with the sanction of the Liquidator (sect. 205, Act of 1908).

The rights and duties of a Liquidator in voluntarily winding up proceedings are somewhat wide. Indeed, he may almost be said to be the sole personality upon whom the yet corporate state of the Company exists. Nevertheless his actions are well defined and provided for by the Statutes. Stated as shortly as possible, they are as follows :—

Companies Act, 1908, sec. :

150. To take control of the Company's property.

151 (1) a. To institute and defend actions on the Company's behalf in any proceeding, civil or criminal.

151 (1) b. To carry on and conduct the business of the Company whenever necessary for the beneficial winding up.

151 (2) a. To sell and transfer the property of the Company,

- 151 (2) *b.* To execute in the name of the Company all deeds; receipts or other documents, and for that purpose to use the Company's Seal.
- 151 (2) *c.* To prove and claim in bankruptcy or sequestration of any contributories of the Company, and to receive such dividends as may accrue to the Company in respect of those contributories.
- 151 (2) *d.* To draw and give bills of exchange or promissory notes, or to borrow money upon the security of the Company's property.
- 151 (2) *e.* Grants permission to raise necessary loans on the security of the Company's assets.
- 151 (2) *f.* To take out, in his name as Official Liquidator, Letters of Administration to any deceased contributory.
- 151 (2) *g.* To do all that may be necessary to wind up the affairs of the Company and to distribute its assets.
- 186 (v). To settle the list of contributories and, where necessary, to rectify the Register of Members, and to adjust the rights of the contributories among themselves : make calls and pay the Company's debts. (See *Taylor Phillips and Rickards* (1896), 2 *Ch.* 859.)
- 194. To call meetings of the Company.

In all these matters, the Liquidator is acting not for himself but ~~for~~ and on behalf of the Company for which he is virtually the Trustee, in one sense as the guardian of the rights of the creditors, and in another as the adjudicator of the rights of the contributories in their respective classes. Whenever he subscribes his signature to any document, he should do so in his official capacity, or personal liability might attach to him.

To effect a compromise of any sort with creditors, debtors, or contributories, the Liquidator will require to be empowered to do so by means of an Extraordinary Resolution (*vide* section 214 (i) (c), Companies Act, 1908).

To prosecute any official or member of the Company, the Liquidator must obtain the permission of the Court. All expenses of such prosecutions may be paid out of the assets of the Company in priority to all other claims (sec. 217, Companies Act, 1908).

The Liquidator's remuneration is at the discretion of the Company, but should be fixed, and may form part of the Resolution creating his appointment. If the remuneration is not arranged in this way, he may apply to the Court for his remedy.

The Statutes do not make any provision for the auditing of the accounts of Liquidation of Companies. Liquidators are required, however, once a year, if the proceedings are protracted, to summon a meeting of the contributories, and to submit accounts of the winding up in the manner provided by sec. 224 of the Companies Act, 1908, and in the form shown on pp. 230 to 234, and accompanied by the formal Statutory Declaration. At such meetings, the Liquidator can be questioned upon any subject dealing with the accounts or the conduct of the process of Liquidation; and, further, the accounts are open to inspection. The Liquidator must, therefore, keep for his own protection a proper set of books of account, and also a correct record of all proceedings dealing with the business of the Liquidation. The forms given upon pp. 230 to 234 will explain themselves and will further suggest the manner in which the accounts should be kept. These need not be of an elaborate nature unless the proceedings include the continuance of the Company's ordinary trading operations, when the usual set of books would have to be employed as in the time antecedent to the Liquidation.

The Liquidator may summon a meeting of the members (or "contributories," as they are termed when a Company is undergoing the process of winding up) from time to time, for any purpose. If the proceedings of the Liquidation continue for the space of one year or more, the Liquidator is required to call a meeting of the contributories, and lay before them an account of his work in the winding up, in the form shown on pp. 230 to 234 already referred to, and this has to be done once every year until the winding up has been concluded. If the meeting called is the final one, notice of this meeting is to be advertised in the *London Gazette* if the Company is registered in England; in the *Edinburgh Gazette* or the *Dublin Gazette*, if registered in Scotland or Ireland respectively. Notices of a meeting must be sent to all the contributories, and, if it be the final meeting, an intimation must be included in this notice to the effect that the meeting has been duly advertised in the *Gazette* for whichever of the three parts of the Kingdom the matter relates to.

At the final meeting, if the Liquidator's accounts are passed and accepted, the members will direct the manner of disposing of the documents and account books of the Company, the usual course being that the Liquidator is required to keep them in his custody for the space of six years after the dissolution of the concern, such dissolution becoming effective three months after the date when the Liquidator files his Return of the Final winding up, accompanied by the Statutory Declaration he is required to make therewith. The Liquidator is liable to a penalty of five pounds per day if he neglects to file these documents with the Registrar of Joint-Stock Companies *immediately* after the holding of the meeting. At the expiration of this three months, the name of the Company will be eliminated from the Register at Somerset House.

The method of winding up subject to the supervision of the Court is a condition of affairs which can only arise out of a voluntary liquidation, so that it would be impossible for a Company to pass a Resolution to the effect that it should be wound up subject to the Court's supervision. It would be necessary first to pass a Resolution to the effect that the Company be wound up voluntarily, and afterwards, the Liquidator appointed, with any committee if acting with him, would apply to the Court for supervision. In effect the process of supervision is really one for continuing the functions of winding up. This procedure was much more resorted to before the passing of the Companies Act, 1907, where by sec. 27 creditors possessed the right of appointing Liquidators and committees of inspection. This is now embodied in sec. 188 of the Consolidation Act, and as it applies with equal effect to Companies undergoing the ordinary process of a voluntary Liquidation, the need for application to the Court for supervisory control is not now often resorted to.

The most formal of the three methods of winding up is that of compulsory liquidation, or where the Court takes the whole business of winding up in hand and in which the appointment of the Liquidator rests solely with the Court. Space prevents us from going into the question of the hundred and one details attendant upon the condition of things leading up to compulsory liquidation, but the most important points for the Secretary or the Directors to bear in mind in such an event, are the requirements laid down by sec. 147 of the Consolidation Act, 1908, which lays upon their

shoulders the duty of preparing a statement of affairs and places them under a penalty of Ten Pounds a day for neglecting to comply with the provisions of the section. They are permitted to employ accountants to prepare the necessary figures which have to be given upon a number of somewhat complicated forms. Wherever the books of the Company have been kept in the proper manner no difficulty should be experienced in fulfilling this requirement. This is practically on all fours with that required to be made out by a person who has been adjudged bankrupt, but the details are necessarily somewhat more elaborate owing to the fact that capital liabilities are, or should be, on a much more highly organised basis.

It is a common practice in all forms of liquidation, and provided for by sec. 160 of the Consolidation Act, for any creditor or contributory concerned in the winding up to apply to the Court for the appointment of a committee of inspection. This committee possesses supervisional rights over the duties of the Liquidator whilst the committee is, of course, subject to the control of the creditors and contributories at general meetings. By sec. 158 a compulsory Liquidator is unable to act in certain matters except with the consent of the Court, or of the committee if any is appointed.





# INDEX TO COMPANIES ACTS, 1908 AND "1913

	SECT.		SECT.
ACCOUNTS . . . . .	113	Auditor, notice of nomination . . . . .	112 (4)
—, Board of Trade . . . . .	231	—, powers and duties of . . . . .	113
Accumulated profits, distribu- . . . . .	40	—, re-appointment of . . . . .	112 (4)
tion of . . . . .		—, removal of . . . . .	112 (5)
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# APPENDIX A

## Companies (Consolidation) Act

[8 EDW. VII., c. 69.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows—

### PART I.

#### CONSTITUTION AND INCORPORATION.

##### *Prohibition of Large Partnerships.*

1.—(1) No company, association, or partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking, unless it is registered as a company under this Act, or is formed in pursuance of some other Act of Parliament, or of letters patent.

(2) No company, association, or partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any other business that has for its object the acquisition of gain by the company, association, or partnership, or by the individual members thereof, unless it is registered as a company under this Act, or is formed in pursuance of some other Act of Parliament, or of letters patent, or is a company engaged in working mines within the stannaries and subject to the jurisdiction of the court exercising the stannaries jurisdiction

*Prohibition  
of large  
Partnerships.*

Prohibition  
of partner-  
ships exceed-  
ing certain  
number.  
[s. 4.]

##### *Memorandum of Association.*

2. Any seven or more persons (or, where the company to be formed will be a private company within the meaning of this Act, any two or more persons) associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Act in respect of registration, form an incorporated company, with or without limited liability (that is to say), either—

- (i) A company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them (in this Act termed a company limited by shares); or
- (ii) A company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being wound up (in this Act termed a company limited by guarantee); or
- (iii) A company not having any limit on the liability of its members (in this Act termed an unlimited company).

*Memorandum  
of Association.*

Mode of form-  
ing incorpo-  
rated company.  
[ss. 6, 7, 8, 9,  
10; 1907, s. 37  
(4).]

*Memorandum of Association.*

Memorandum of company limited by shares.  
[s. 8.]

## 3. In the case of a company limited by shares—

## (1) The memorandum must state—

- (i) The name of the company, with " Limited " as the last word in its name ;
- (ii) The part of the United Kingdom, whether England, Scotland, or Ireland, in which the registered office of the company is to be situate ;
- (iii) The objects of the company ;
- (iv) That the liability of the members is limited ;
- (v) The amount of share capital with which the company proposes to be registered, and the division thereof into shares of a fixed amount ;

## (2) No subscriber of the memorandum may take less than one share :

## (3) Each subscriber must write opposite to his name the number of shares he takes.

## 4. In the case of a company limited by guarantee—

## (1) The memorandum must state—

- (i) The name of the company, with " Limited " as the last word in its name ;
- (ii) The part of the United Kingdom, whether England, Scotland, or Ireland, in which the registered office of the company is to be situate ;
- (iii) The objects of the company ;
- (iv) That the liability of the members is limited ;
- (v) That each member undertakes to contribute to the assets of the company in the event of its being wound up, while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and of the costs, charges, and expenses of winding up, and for adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

## (2) If the company has a share capital—

- (i) The memorandum must also state the amount of share capital with which the company proposes to be registered and the division thereof into shares of a fixed amount ;
- (ii) No subscriber of the memorandum may take less than one share ;
- (iii) Each subscriber must write opposite to his name the number of shares he takes.

## 5. In the case of an unlimited company—

## (1) The memorandum must state—

- (i) The name of the company ;
- (ii) The part of the United Kingdom, whether England, Scotland, or Ireland, in which the registered office of the company is to be situate ;
- (iii) The objects of the company.

## (2) If the company has a share capital—

- (i) No subscriber of the memorandum may take less than one share ;
- (ii) Each subscriber must write opposite to his name the number of shares he takes.

## 6. The memorandum must bear the same stamp as if it were a deed, and must be signed by each subscriber in the presence of at least one witness who must attest the signature,

Memorandum of company limited by guarantee.  
[ss. 9, 14 ;  
1900, s. 27 (1)  
(4).]

Memorandum of unlimited company.  
[ss. 10, 14.]

Stamp and signature of memorandum.  
[s. 11.]

and that attestation shall be sufficient in Scotland as well as in England and Ireland.

7. A company may not alter the conditions contained in its memorandum except in the cases and in the mode and to the extent for which express provision is made in this Act.

8.—(1) A company may not be registered by a name identical with that by which a company in existence is already registered, or so nearly resembling that name as to be calculated to deceive, except where the company in existence is in the course of being dissolved and signifies its consent in such manner as the registrar requires.

(2) If a company, through inadvertence or otherwise, is, without such consent as aforesaid, registered by a name identical with that by which a company in existence is previously registered, or so nearly resembling it as to be calculated to deceive, the first-mentioned company may, with the sanction of the registrar, change its name.

(3) Any company may, by special resolution and with the approval of the Board of Trade signified in writing, change its name.

(4) Where a company changes its name the registrar shall enter the new name on the register in place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case.

(5) The change of name shall not affect any rights or obligations of the company, or render defective any legal proceedings by or against the company, and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

9.—(1) Subject to the provisions of this section a company may, by special resolution, alter the provisions of its memorandum with respect to the objects of the company, so far as may be required to enable it—

- (a) to carry on its business more economically or more efficiently; or
- (b) to attain its main purpose by new or improved means; or
- (c) to enlarge or change the local area of its operations; or
- (d) to carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the company; or
- (e) to restrict or abandon any of the objects specified in the memorandum.

(2) The alteration shall not take effect until and except in so far as it is confirmed on petition by the court.

(3) Before confirming the alteration the court must be satisfied—

- (a) that sufficient notice has been given to every holder of debentures of the company, and to any persons or class of persons whose interests will, in the opinion of the court, be affected by the alteration; and
- (b) that, with respect to every creditor who in the opinion of the court is entitled to object, and who signifies his objection in manner directed by the court, either his consent to the alteration has been obtained or his debt

Restriction on  
alteration of  
memorandum  
[s. 12.]

Name of  
company and  
change of  
name.  
[ss. 13, 20.]

Alteration of  
objects of  
company.  
[1890, c. 62,  
ss. 1, 2.]

*Memorandum  
of Association.*

or claim has been discharged or has determined, or has been secured to the satisfaction of the court :

Provided that the court may, in the case of any person or class, for special reasons, dispense with the notice required by this section.

(4) The court may make an order confirming the alteration either wholly or in part, and on such terms and conditions as it thinks fit, and may make such order as to costs as it thinks proper.

(5) The court shall, in exercising its discretion under this section, have regard to the rights and interests of the members of the company or of any class of them, as well as to the rights and interests of the creditors, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the court for the purchase of the interests of dissentient members ; and may give such directions and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement ; Provided that no part of the capital of the company may be expended in any such purchase.

(6) An office copy of the order confirming the alteration, together with a printed copy of the memorandum as altered, shall, within fifteen days from the date of the order, be delivered by the company to the registrar of companies, and he shall register the same, and shall certify the registration under his hand, and the certificate shall be conclusive evidence that all the requirements of this Act with respect to the alteration and the confirmation thereof have been complied with, and thenceforth the memorandum so altered shall be the memorandum of the company.

The court may by order at any time extend the time for the delivery of documents to the registrar under this section for such period as the court may think proper.

(7) If a company makes default in delivering to the registrar of companies any document required by this section to be delivered to him, the company shall be liable to a fine not exceeding ten pounds for every day during which it is in default.

*Articles of  
Association.  
Registration  
of articles.  
[s. 14.]*

#### *Articles of Association.*

10.—(1) There may, in the case of a company limited by shares, and there shall in the case of a company limited by guarantee or unlimited, be registered with the memorandum, articles of association signed by the subscribers to the memorandum and prescribing regulations for the company.

(2) Articles of association may adopt all or any of the regulations contained in Table A in the First Schedule to this Act.

(3) In the case of an unlimited company or a company limited by guarantee the articles, if the company has a share capital, must state the amount of share capital with which the company be registered.

(4) In the case of an unlimited company or a company limited by guarantee, if the company has not a share capital, the articles must state the number of members with which the company proposes to be registered, for the purpose of enabling the registrar to determine the fees payable on registration.

11. In the case of a company limited by shares and registered after the commencement of this Act, if articles are not registered, or, if articles are registered, in so far as the articles do not exclude

*Application  
of Table A.  
[s. 15.]*

*Articles of Association.*

or modify the regulations in Table A in the First Schedule to this Act, those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles.

12. Articles must—

- (a) be printed;
- (b) be divided into paragraphs numbered consecutively;
- (c) bear the same stamp as if they were contained in a deed; and
- (d) be signed by each subscriber of the memorandum of association in the presence of at least one witness who must attest the signature, and that attestation shall be sufficient in Scotland as well as in England and Ireland.

Form, stamp, and signature of articles.  
[ss. 14, 16.]

13.—(1) Subject to the provisions of this Act and to the conditions contained in its memorandum, a company may by special resolution alter or add to its articles; and any alteration or addition so made shall be as valid as if originally contained in the articles, and be subject in like manner to alteration by special resolution.

Alteration of articles by special resolution.  
[ss. 50, 176.]

(2) The power of altering articles under this section shall, in the case of an unlimited company formed and registered under the Joint Stock Companies Acts, extend to altering any regulations relating to the amount of capital or its distribution into shares, notwithstanding that those regulations are contained in the memorandum.

*General Provisions.*

14.—(1) The memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed and sealed by each member, and contained covenants on the part of each member, his heirs, executors, and administrators, to observe all the provisions of the memorandum and of the articles, subject to the provisions of this Act.

*General Provisions.*  
Effect of memorandum and articles.  
[ss. 11, 16.]

(2) All money payable by any member to the company under the memorandum or articles shall be a debt due from him to the company, and in England and Ireland be of the nature of a specialty debt.

15. The memorandum and the articles (if any) shall be delivered to the registrar of companies for that part of the United Kingdom in which the registered office of the company is situated by the memorandum to be situate, and he shall retain and register them.

Registration of memorandum and articles.  
[ss. 17, 174 (3).]

16.—(1) On the registration of the memorandum of a company the registrar shall certify under his hand that the company is incorporated, and in the case of a limited company that the company is limited.

Effect of registration.  
[s. 18;  
1900. s. 1 (2)]

(2) From the date of incorporation mentioned in the certificate of incorporation, the subscribers of the memorandum together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a common seal, with power to hold lands, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Act.

*General Provisions.*  
 Conclusiveness of certificate of incorporation.  
 [1900, ss. 1, 34 (1).]

17.—(1) A certificate of incorporation given by the registrar in respect of any association shall be conclusive evidence that all the requirements of this Act in respect of registration and of matters precedent and incidental thereto have been complied with, and that the association is a company authorised to be registered and duly registered under this Act.

(2) A statutory declaration by a solicitor of the High Court, and in Scotland by an enrolled law agent, engaged in the formation of the company or by a person named in the articles as a director or secretary of the company of compliance with all or any of the said requirements shall be produced to the registrar, and the registrar may accept such a declaration as sufficient evidence of compliance.

Copies of memorandum and articles to be given to members.  
 [s. 19.]

18.—(1) Every company shall send to every member, at his request, and on payment of one shilling or such less sum as the company may prescribe, a copy of the memorandum and of the articles (if any).

(2) If a company makes default in complying with the requirements of this section, it shall be liable for each offence to a fine not exceeding one pound.

*Associations not for Profit.*  
 Restriction on charitable and other companies holding land.  
 [s. 21.]

*Associations not for Profit.*

19. A company formed for the purpose of promoting art, science, religion, charity, or any other like object, not involving the acquisition of gain by the company or by its individual members, shall not, without the licence of the Board of Trade, hold more than two acres of land: but the Board may by licence empower any such company to hold lands in such quantity, and subject to such conditions, as the Board think fit.

Power to dispense with "limited" in name of charitable and other companies.  
 [s. 22, s. 23.  
 1907, s. 42.]

20.—(1) Where it is proved to the satisfaction of the Board of Trade that an association about to be formed as a limited company is to be formed for promoting commerce, art, science, religion, charity, or any other useful object, and intends to apply its profits (if any), or other income in promoting its objects, and to prohibit the payment of any dividend to its members, the Board may by licence direct that the association be registered as a company with limited liability, without the addition of the word "Limited" to its name, and the association may be registered accordingly.

(2) A licence by the Board of Trade under this section may be granted on such conditions and subject to such regulations as the Board think fit, and those conditions and regulations shall be binding on the association, and shall, if the Board so direct, be inserted in the memorandum and articles, or in one of those documents.

(3) The association shall on registration enjoy all the privileges of limited companies, and be subject to all their obligations, except those of using the word "Limited" as any part of its name, and of publishing its name, and of sending lists of members and directors and managers to the registrar of companies.

(4) A licence under this section may at any time be revoked by the Board of Trade, and upon revocation the registrar shall enter the word "Limited" at the end of the name of the association upon the register, and the association shall cease to enjoy the exemptions and privileges granted by this section:

Provided that before a licence is so revoked the Board shall give to the association notice in writing of their intention, and shall afford the association an opportunity of being heard in opposition to the revocation.

*Companies limited by Guarantee.*

21.—(1) In the case of a company limited by guarantee and not having a share capital, and registered on or after the first day of January, nineteen hundred and one, every provision in the memorandum or articles or in any resolution of the company purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member shall be void.

(2) For the purpose of the provisions of this Act relating to the memorandum of a company limited by guarantee and of this section, every provision in the memorandum or articles, or in any resolution of any company (limited by guarantee) and registered on or after the first day of January, nineteen hundred and one, purporting to divide the undertaking of the company into shares or interests shall be treated as a provision for a share capital, notwithstanding that the nominal amount or number of the shares or interests is not specified thereby.

*Companies limited by Guarantee.*

Provision as to companies limited by guarantee.  
[1900 s. 27.]

## PART II.

## DISTRIBUTION AND REDUCTION OF SHARE CAPITAL, REGISTRATION OF UNLIMITED COMPANY AS LIMITED, AND UNLIMITED LIABILITY OF DIRECTORS.

*Distribution of Share Capital.*

22.—(1) The shares or other interest of any member in a company shall be personal estate, transferable in manner provided by the articles of the company, and shall not be of the nature of real estate.

(2) Each share in a company having a share capital shall be distinguished by its appropriate number.

23. A certificate, under the common seal of the company, specifying any shares or stock held by any member, shall be prima facie evidence of the title of the member to the shares or stock.

24.—(1) The subscribers of the memorandum of a company shall be deemed to have agreed to become members of the company, and on its registration shall be entered as members in its register of members.

(2) Every other person who agrees to become a member of a company, and whose name is entered in its register of members, shall be a member of the company.

25.—(1) Every company shall keep in one or more books a register of its members, and enter therein the following particulars—

- (i) The names and addresses, and the occupations, if any, of the members, and in the case of a company having a share capital a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member;
- (ii) The date at which each person was entered in the register as a member;
- (iii) The date at which any person ceased to be a member.

(2) If a company fails to comply with this section it shall be liable to a fine not exceeding five pounds for every day during which the default continues; and every director and manager

*Distribution of Share Capital.*

Nature of shares.  
[s. 22.]

Certificate of shares or stock.  
[s. 23.]

Definition of member.  
[s. 24.]

Register of members.  
[s. 25.]

*Distribution of  
Share Capital.**Annual list  
of members  
and sum-  
mary.*

[ss. 26, 27 ;  
1867, s. 32 ;  
1900, ss. 19,  
30 ; 1907, ss.  
7, 20, & 21.]

of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

26.—(1) Every company having a share capital shall once at least in every year make a list of all persons who, on the fourteenth day after the first or only ordinary general meeting in the year, are members of the company, and of all persons who have ceased to be members since the date of the last return or (in the case of the first return) of the incorporation of the company.

(2) The list must state the names, addresses, and occupations of all the past and present members therein mentioned, and the number of shares held by each of the existing members at the date of the return, specifying shares transferred since the date of the last return or (in the case of the first return) of the incorporation of the company by persons who are still members and have ceased to be members respectively and the dates of registration of the transfers, and must contain a summary distinguishing between shares issued for cash and shares issued as fully or partly paid up otherwise than in cash, and specifying the following particulars :—

- (a) The amount of the share capital of the company, and the number of the shares into which it is divided ;
- (b) The number of shares taken from the commencement of the company up to the date of the return ;
- (c) The amount called up on each share ;
- (d) The total amount of calls received ;
- (e) The total amount of calls unpaid ;
- (f) The total amount of the sums (if any) paid by way of commission in respect of any shares or debentures, or allowed by way of discount in respect of any debentures, since the date of the last return ;
- (g) The total number of shares forfeited ;
- (h) The total amount of shares or stock for which share warrants are outstanding at the date of the return ;
- (i) The total amount of share warrants issued and surrendered respectively since the date of the last return ;
- (k) The number of shares or amount of stock comprised in each share warrant ;
- (l) The names and addresses of the persons who at the date of the return are the directors of the company, or occupy the position of directors, by whatever name called ; and
- (m) The total amount of debt due from the company in respect of all mortgages and charges which are required (or, in the case of a company registered in Scotland, which, if the company had been registered in England, would be required) to be registered with the registrar of companies under this Act, or which would have been required so to be registered if created after the first day of July nineteen hundred and eight.

(3) The summary must also (except where the company is a private company) include a statement, made up to such date as may be specified in the statement, in the form of a balance sheet, audited by the company's auditors, and containing a summary of its share capital, its liabilities, and its assets, giving such particulars as will disclose the general nature of those liabilities and assets, and how the values of the fixed assets have been arrived at, but the balance sheet need not include a statement of profit and loss.



*Distribution of  
Share Capital.*

(4) The above list and summary must be contained in a separate part of the register of members, and must be completed within seven days after the fourteenth day aforesaid and the company must forthwith forward to the registrar of companies a copy signed by the manager or by the secretary of the company.

(5) If a company makes default in complying with the requirements of this section it shall be liable to a fine not exceeding five pounds for every day during which the default continues, and every director and manager of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

27. No notice of any trust, expressed, implied, or constructive, shall be entered on the register, or be receivable by the registrar, in the case of companies registered in England or Ireland.

Trusts not to  
be entered on  
register.  
[s. 30.]

28. On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee.

Registration  
of transfer  
at request of  
transferor.  
[1867, s. 26.]

29. A transfer of the share or other interest of a deceased member of a company made by his personal representative shall, although the personal representative is not himself a member, be as valid as if he had been a member at the time of the execution of the instrument of transfer.

Transfer by  
personal re-  
presentative.  
[s. 24.]

30.—(1) The register of members, commencing from the date of the registration of the company, shall be kept at the registered office of the company, and, except when closed under the provisions of this Act, shall during business hours (subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member gratis, and to the inspection of any other person on payment of one shilling, or such less sum as the company may prescribe, for each inspection.

Inspection  
of register  
of members.  
[s. 32; 1907,  
s. 50 and  
sched. II.]

(2) Any member or other person may require a copy of the register, or of any part thereof, or of the list and summary required by this Act, or any part thereof, on payment of sixpence, or such less sum as the company may prescribe, for every hundred words or fractional part thereof required to be copied.

(3) If any inspection or copy required under this section is refused, the company shall be liable for each refusal to a fine not exceeding two pounds, and to a further fine not exceeding two pounds for every day during which the refusal continues, and every director and manager of the company who knowingly authorises or permits the refusal shall be liable to the like penalty; and as respects companies registered in England or Ireland, any judge of the High Court, or the judge of the court exercising the stannaries jurisdiction in the case of companies subject to that jurisdiction, may by order compel an immediate inspection of the register.

31. A company may, on giving notice by advertisement in some newspaper circulating in the district in which the registered office of the company is situate, close the register of members for any time or times not exceeding in the whole thirty days in each year.

Power to  
close register.  
[s. 33.]

*Distribution of  
Share Capital.*

Power of  
court to  
rectify  
register.  
[ss. 35, 36.]

### 32.—(1) If—

(a) the name of any person is, without sufficient cause, entered in or omitted from the register of members of a company; or

(b) default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member,

the person aggrieved, or any member of the company, or the company, may apply to the court for rectification of the register.

(2) The application may be made, as respects companies registered in England or Ireland, by motion in the High Court, or by application to a judge of the High Court sitting in chambers, or by application to the judge of the court exercising the standard jurisdiction in the case of companies subject to that jurisdiction, and as respects companies registered in Scotland by summary petition to the Court of Session, or in such other manner as the said courts may respectively direct; and the court may either refuse the application, or may order rectification of the register, and payment by the company of any damages sustained by any party aggrieved.

(3) On any application under this section the court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand; and generally may decide any question necessary or expedient to be decided for rectification of the register.

(4) In the case of a company required by this Act to send a list of its members to the registrar of companies, the court, when making an order for rectification of the register, shall by its order direct notice of the rectification to be given to the registrar.

33. The register of members shall be *prima facie* evidence of any matters by this Act directed or authorised to be inserted therein.

34.—(1) A company having a share capital, whose objects comprise the transaction of business in a colony, may, if so authorised by its articles, cause to be kept in any colony in which it transacts business a branch register of members resident in that colony (in this Act called a colonial register).

(2) The company shall give to the registrar of companies notice of the situation of the office where any colonial register is kept, and of any change in its situation, and of the discontinuance of the office in the event of its being discontinued.

(5) For the purpose of the provisions of this Act relating to colonial registers the term "colony" includes British India and the Commonwealth of Australia.

35.—(1) A colonial register shall be deemed to be part of the company's register of members (in this and the next following section called the principal register).

(2) It shall be kept in the same manner in which the principal register is by this Act required to be kept, except that the advertisement before closing the register shall be inserted in some newspaper circulating in the district wherein the colonial register is kept, and that any competent court in the colony may exercise the same jurisdiction of rectifying the register as is under this Act exercisable by the High Court, and that the

Register to  
be evidence.  
[ss. 37.]

Power for  
company to  
keep colonial  
register.  
[1883, ss. 2,  
3 (1), (2);  
1907, s. 43.]

Regulations  
as to colonial  
register.  
[1883, s. 3 (3),  
6, (8).]

offences of refusing inspection or copies of a colonial register, and of authorising or permitting the refusal may be prosecuted summarily before any tribunal in the colony having summary criminal jurisdiction.

(3) The company shall transmit to its registered office a copy of every entry in its colonial register as soon as may be after the entry is made; and shall cause to be kept at its registered office, duly entered up from time to time, a duplicate of its colonial register, and the duplicate shall, for all the purposes of this Act, be deemed to be part of the principal register.

(4) Subject to the provisions of this section, with respect to the duplicate register, the shares registered in a colonial register shall be distinguished from the shares registered in the principal register, and no transaction with respect to any shares registered in a colonial register shall, during the continuance of that registration, be registered in any other register.

(5) The company may discontinue to keep any colonial register, and thereupon all entries in that register shall be transferred to some other colonial register kept by the company in the same colony, or to the principal register.

(6) Subject to the provisions of this Act, any company may, by its articles, make such provisions as it may think fit respecting the keeping of colonial registers.

36. In relation to stamp duties the following provisions shall have effect—

(a) An instrument of transfer of a share registered in a colonial register shall be deemed to be a transfer of property situate out of the United Kingdom, and unless executed in any part of the United Kingdom shall be exempt from British stamp duty;

(b) On the death of a member registered in a colonial register, the shares of the deceased member shall, if he died domiciled in the United Kingdom, but not otherwise, be deemed, so far as relates to British duties, to be part of his estate and effects situate in the United Kingdom for or in respect of which probate or letters of administration is or are to be granted, or whereof an inventory is to be exhibited and recorded, in like manner as if he were registered in the principal register.

37.—(1) A company limited by shares, if so authorised by its articles, may with respect to any fully paid-up shares, or to stock, issue under its common seal a warrant stating that the bearer of the warrant is entitled to the shares or stock therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on the shares or stock included in the warrant, in this Act termed a share warrant.

(2) A share warrant shall entitle the bearer thereof to the shares or stock therein specified, and the shares or stock may be transferred by delivery of the warrant.

(3) The bearer of a share warrant shall, subject to the articles of the company, be entitled, on surrendering it for cancellation, to have his name entered as a member in the register of members; and the company shall be responsible for any loss incurred by any person by reason of the company entering in its register the name of a bearer of a share warrant in respect of the shares or stock therein specified without the warrant being surrendered and cancelled.

(4) The bearer of a share warrant may, if the articles of the

Stamp duties  
in case of  
shares regis-  
tered in  
colonial re-  
gisters.  
[1883, s. 3 (7);  
52 & 53 Vict.  
c. 42, s. 18.]

Issue and  
effect of share  
warrants to  
bearer.  
[1867, ss. 27-  
32.]

*Distribution of  
Share Capital.*

company so provide, be deemed to be a member of the company within the meaning of this Act, either to the full extent or for any purposes defined in the articles; except that he shall not be qualified in respect of the shares or stock specified in the warrant for being a director or manager of the company, in cases where such a qualification is required by the articles.

(5) On the issue of a share warrant the company shall strike out of its register of members the name of the member then entered therein as holding the shares or stock specified in the warrant as if he had ceased to be a member, and shall enter in the register the following particulars, namely—

- (i) The fact of the issue of the warrant;
- (ii) A statement of the shares or stock included in the warrant, distinguishing each share by its number; and
- (iii) The date of the issue of the warrant.

(6) Until the warrant is surrendered, the above particulars shall be deemed to be the particulars required by this Act to be entered in the register of members; and on the surrender, the date of the surrender must be entered as if it were the date at which a person ceased to be a member.

38.—(1) If any person—

- (i) with intent to defraud, forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any share warrant or coupon, or any document purporting to be a share warrant or coupon, issued in pursuance of this Act or by means of any such forged or altered share warrant, coupon, or document, purporting as aforesaid, demands or endeavours to obtain or receive any share or interest in any company under this Act, or to receive any dividend or money payable in respect thereof, knowing the warrant, coupon, or document to be forged or altered; or
- (ii) falsely and deceitfully personates any owner of any share or interest in any company, or of any share warrant or coupon, issued in pursuance of this Act, and thereby obtains or endeavours to obtain any such share or interest or share warrant or coupon, or receives or endeavours to receive any money due to any such owner, as if the offender were the true and lawful owner,

he shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years.

(2) If any person without lawful authority, or excuse, proof whereof shall lie on him, engraves or makes on any plate, wood, stone, or other material any share warrant or coupon purporting to be a share warrant or coupon issued or made by any particular company, in pursuance of this Act or to be a blank share warrant or coupon so issued or made, or to be a part of such a share warrant or coupon, or uses any such plate, wood, stone, or other material for the making or printing of any such share warrant or coupon, or of any such blank share warrant or coupon, or any part thereof respectively, or knowingly has in his custody or possession any such plate, wood, stone, or other material he shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years.

*Forgery,  
personation,  
unlawfully  
engraving  
plates, &c.  
[1867, ss. 34  
36.]*

*[See 54 & 55  
Vict. c. 69,  
s. 1.]*

*[See 54 & 55  
Vict. c. 69,  
s. 1.]*

39. A company, if so authorised by its articles, may do any one or more of the following things; namely—

- (1) Make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares;
- (2) Accept from any member who assents thereto the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up;
- (3) Pay dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

40.—(1) When a company has accumulated a sum of undivided profits, which with the sanction of the shareholders may be distributed among the shareholders in the form of a dividend or bonus, it may, by special resolution, return the same, or any part thereof, to the shareholders in reduction of the paid-up capital of the company, the unpaid capital being thereby increased by a similar amount.

(2) The resolution shall not take effect until a memorandum, showing the particulars required by this Act in the case of a reduction of share capital, has been produced to and registered by the registrar of companies, but the other provisions of this Act with respect to reduction of share capital shall not apply to a reduction of paid-up share capital under this section.

(3) On a reduction of paid-up capital in pursuance of this section any shareholder, or any one or more of several joint shareholders, may within one month after the passing of the resolution for the reduction, require the company to retain, and the company shall retain accordingly, the whole of the money actually paid on the shares held by him either alone or jointly with any other person, which, in consequence of the reduction, would otherwise be returned to him or them, and thereupon those shares shall, as regards the payment of dividend, be deemed to be paid up to the same extent only as the shares on which payment has been accepted by the shareholders in reduction of paid-up capital, and the company shall invest and keep invested the money so retained in such securities authorised for investment by trustees as the company may determine, and on the money so invested or on so much thereof as from time to time exceeds the amount of calls subsequently made on the shares in respect of which it has been retained, the company shall pay the interest received from time to time on the securities.

(4) The amount retained and invested shall be held to represent the future calls which may be made to replace the share capital so reduced on those shares, whether the amount obtained on sale of the whole or such proportion thereof as represents the amount of any call when made produces more or less than the amount of the call.

(5) On a reduction of paid-up share capital in pursuance of this section, the powers vested in the directors of making calls on shareholders in respect of the amount unpaid on their shares shall extend to the amount of the unpaid share capital as augmented by the reduction.

(6) After any reduction of share capital under this section the company shall specify in the annual list of members required by this Act the amounts retained at the request of any of the shareholders in pursuance of this section, and shall specify in

*Distribution of Share Capital.*

Power of company to arrange for different amounts being paid on shares.  
[1867, s. 24.]

Power to return accumulated profits in reduction of paid-up share capital.  
[1880, ss. 3-6.]

*Distribution of  
Share Capital.*

Power of  
company  
limited by  
shares to  
alter its  
share capital.  
s. 12;  
1867, ss. 21, 22;  
1877, s. 5;  
1900, s. 29.

the statements of account laid before any general meeting of the company the amount of undivided profits returned in reduction of paid-up share capital under this section.

41.—(1) A company limited by shares, if, so, authorised by its articles, may alter the conditions of its memorandum as follows (that is to say), it may—

- (a) increase its share capital by the issue of new shares of such amount as it thinks expedient;
- (b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
- (c) convert all or any of its paid-up shares into stock, and reconvert that stock into paid-up shares of any denomination;
- (d) subdivide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum; so, however, that in the subdivision the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived;
- (e) cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The powers conferred by this section with respect to subdivision of shares must be exercised by special resolution.

(3) Where any alteration has been made under this section in the memorandum of a company, every copy of the memorandum issued after the date of the alteration shall be in accordance with the alteration.

If a company makes default in complying with this provision it shall be liable to a fine not exceeding one pound for each copy in respect of which default is made; and every director and manager of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

(4) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Act.

42. Where a company having a share capital has consolidated and divided its share capital into shares of larger amount than its existing shares, or converted any of its shares into stock, or reconverted stock into shares, it shall give notice to the registrar of companies of the consolidation, division, conversion, or reconversion specifying the shares consolidated, divided, or converted, or the stock reconverted.

43. Where a company having a share capital has converted any of its shares into stock, and given notice of the conversion to the registrar of companies, all the provisions of this Act which are applicable to shares only shall cease as to so much of the share capital as is converted into stock; and the register of members of the company, and the list of members to be forwarded to the registrar, shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares hereinbefore required by this Act.

44.—(1) Where a company having a share capital, whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, and where a company not having a share capital has increased the

Notice to  
registrar of  
consolidation  
share  
capital, con-  
version of  
shares into  
stock, &c.  
[s. 28;  
1907, s. 50 and  
sched. III.]  
Effect of  
conversion  
of shares  
into stock.  
[s. 29.]

Notice of  
increase of  
share capital  
or of mem-  
bers. [s. 34.]

*Distribution of  
Share Capital.*

number of its members beyond the registered number, it shall give to the registrar of companies, in the case of an increase of share capital, within fifteen days after the passing, or in the case of a special resolution the confirmation, of the resolution authorising the increase, and in the case of an increase of members within fifteen days after the increase was resolved on or took place, notice of the increase of capital or members, and the registrar shall record the increase.

(2) If a company makes default in complying with the requirements of this section it shall be liable to a fine not exceeding five pounds for every day during which the default continues, and every director and manager of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

45.—(1) A company limited by shares may, by special resolution confirmed by an order of the court, modify the conditions contained in its memorandum so as to reorganise its share capital, whether by the consolidation of shares of different classes or by the division of its shares into shares of different classes :

*Reorganisa-  
tion of  
share capital.  
[1907, s. 39]*

Provided that no preference or special privilege attached to or belonging to any class of shares shall be interfered with except by a resolution passed by a majority in number of shareholders of that class holding three-fourths of the share capital of that class and confirmed at a meeting of shareholders of that class in the same manner as a special resolution of the company is required to be confirmed, and every resolution so passed shall bind all shareholders of the class.

(2) Where an order is made under this section an office copy thereof shall be filed with the registrar of companies within seven days after the making of the order, or within such further time as the court may allow, and the resolution shall not take effect until such a copy has been so filed.

#### *Reduction of Share Capital.*

46.—(1) Subject to confirmation by the court, a company limited by shares, if so authorised by its articles, may by special resolution reduce its share capital in any way, and in particular (without prejudice to the generality of the foregoing power) may—

*Reduction of  
Share Capital.  
Special  
resolution for  
reduction of  
share capital.  
[1867, s. 9 ;  
1877, s. 3.]*

(a) Extinguish or reduce the liability on any of its shares in respect of share capital not paid up ; or  
(b) Either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets ; or  
(c) Either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the company, and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

(2) A special resolution under this section is in this Act called a resolution for reducing share capital.

47. Where a company has passed and confirmed a resolution for reducing share capital it may apply by petition to the court for an order confirming the reduction.

*Application to  
court for con-  
firming order.  
[1867, s. 11.]*

*Reduction of  
Share Capital.*

Addition to  
name of com-  
pany of "and  
reduced."

[1867, s. 10 ;  
1877, s. 4.]

48. On and from the confirmation by a company of a resolution for reducing share capital, or where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, then on and from the presentation of the petition for confirming the reduction, the company shall add to its name, until such date as the court may fix, the words "and reduced," as the last words in its name, and those words shall until that date, be deemed to be part of the name of the company :

Provided that, where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, the court may, if it thinks expedient, dispense altogether with the addition of the words "and reduced."

*Objections  
by creditors,  
and settle-  
ment of list  
of objecting  
creditors.*

[1867, ss. 13,  
14 ;  
1877, s. 4.]

49.—(1) Where the proposed reduction of share capital involves either diminution of liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, and in any other case if the court so directs, every creditor of the company who at the date fixed by the court is entitled to any debt or claim which, if that date were the commencement of the winding up of the company, would be admissible in proof against the company, shall be entitled to object to the reduction.

(2) The court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction.

(3) Where a creditor entered on the list whose debt or claim is not discharged or determined does not consent to the reduction, the court may, if it thinks fit, dispense with the consent of that creditor, on the company securing payment of his debt or claim by appropriating, as the court may direct, the following amount ; (that is to say) —

- (i) If the company admits the full amount of his debt or claim, or though not admitting it is willing to provide for it, then the full amount of the debt or claim ;
- (ii) If the company does not admit or is not willing to provide for the full amount of the debt or claim, or if the amount is contingent or not ascertained, then an amount fixed by the court after the like inquiry and adjudication as if the company were being wound up by the court.

*Order con-  
firming re-  
duction.*

[1867, ss. 11,  
12.]

50. The court, if satisfied, with respect to every creditor of the company who under this Act is entitled to object to the reduction, that either his consent to the reduction has been obtained or his debt or claim has been discharged or has determined, or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit.

*Registration  
of order and  
minute of re-  
duction.*

[1867, ss. 9, 15 ;  
1877, s. 4.]

51.—(1) The registrar of companies on production to him of an order of the court confirming the reduction of the share capital of a company, and the delivery to him of a copy of the order and of a minute (approved by the court), showing with respect to the share capital of the company, as altered by the order, the amount of the share capital, the number of shares into



*Reduction of  
Share Capital.*

which it is to be divided, and the amount of each share, and the amount (if any) at the date of the registration deemed to be paid up on each share, shall register the order and minute.

(2) On the registration, and not before, the resolution for reducing share capital as confirmed by the order so registered shall take effect.

(3) Notice of the registration shall be published in such manner as the court may direct.

(4) The registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requirements of this Act with respect to reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute.

52.—(1) The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum of the company, and shall be valid and alterable as if it had been originally contained therein; and must be embodied in every copy of the memorandum issued after its registration.

*Minute to  
form part of  
memorandum.  
[1867, ss. 16,  
18.]*

(2) If a company makes default in complying with the requirements of this section it shall be liable to a fine not exceeding one pound for each copy in respect of which default is made, and every director and manager of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

53. A member of the company, past or present, shall not be liable in respect of any share to any call or contribution exceeding in amount the difference (if any) between the amount paid, or (as the case may be) the reduced amount, if any, which is to be deemed to have been paid, on the share and the amount of the share as fixed by the minute:

*Liability of  
members in  
respect of  
reduced  
shares.  
[1867, ss. 16,  
17; 1907, s. 50  
& sched. II.]*

Provided that if any creditor, entitled in respect of any debt or claim to object to the reduction of share capital, is, by reason of his ignorance of the proceedings for reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and, after the reduction, the company is unable, within the meaning of the provisions of this Act with respect to winding up by the court, to pay the amount of his debt or claim, then—

(i) every person who was a member of the company at the date of the registration of the order for reduction and minute, shall be liable to contribute for the payment of that debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before that registration; and

(ii) if the company is wound up, the court, on the application of any such creditor, and proof of his ignorance as aforesaid may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list as if they were ordinary contributories in a winding up.

Nothing in this section shall affect the rights of the contributories among themselves.

54. If any director, manager, or officer of the company wilfully conceals the name of any creditor entitled to object to the reduction, or wilfully misrepresents the nature or amount of the debt or claim of any creditor, or if any director or manager

*Penalty on  
concealment  
of name of  
creditor.  
[1867, s. 19.]*

*Reduction of  
Share Capital.*

Publication  
of reasons for  
reduction.  
[1877, s. 4.]

Increase and  
reduction of  
share capital  
in case of a  
company  
limited by  
guarantee  
having a  
share capital.

*Registration of  
Unlimited  
Company as  
Limited.*

Registration of  
unlimited  
company as  
limited.  
[1879, ss. 4, 9.]

Power of un-  
limited com-  
pany to pro-  
vide for re-  
serve share  
capital on  
registration.  
[1879, s. 5;  
1907, s. 50 &  
sched. III.]

*Reserve  
Liability of  
Limited  
Company.*  
Reserve li-  
ability of  
limited com-  
pany.  
[1879, s. 5.]

of the company aids or abets in or is privy to any such concealment or misrepresentation as aforesaid, every such director, manager, or officer shall be guilty of a misdemeanour.

55. In any case of reduction of share capital, the court may require the company to publish as the court directs the reasons for reduction, or such other information in regard hereto as the court may think expedient with a view to give proper information to the public, and, if the court thinks fit, the causes which led to the reduction.

56. A company limited by guarantee and registered on or after the first day of January nineteen hundred and one, may, if it has a share capital, and is so authorised by its articles, increase or reduce its share capital in the same manner and subject to the same conditions in and subject to which a company limited by shares may increase or reduce its share capital under the provisions of this Act.

*Registration of Unlimited Company as Limited.*

57. Subject to the provisions of this section, any company registered as unlimited may register under this Act as limited, or any company already registered as a limited company, may re-register under this Act, but the registration of an unlimited company as a limited company shall not affect any debts, liabilities, obligations, or contracts incurred or entered into by, to, with, or on behalf of the company before the registration, and those debts, liabilities, obligations and contracts may be enforced in manner provided by Part VII of this Act in the case of a company registered in pursuance of that Part.

On registration in pursuance of the preceding section the registrar shall close the former registration of the company, and may dispense with the delivery to him of copies of any documents with copies of which he was furnished on the occasion of the original registration of the company, but, save as aforesaid, the registration shall take place in the same manner and shall have effect as if it were the first registration of the company under this Act, and as if the provisions of the Acts under which the company was previously registered and regulated had been contained in different Acts of Parliament from those under which the company is registered as a limited company.

58. An unlimited company having a share capital may, by its resolution for registration as a limited company in pursuance of this Act, do either or both of the following things, namely—

- (a) Increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, but subject to the condition that no part of the increased capital shall be capable of being called up except in the event and for the purposes of the company being wound up;
- (b) Provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up.

*Reserve Liability of Limited Company.*

59. A limited company may by special resolution determine that any portion of its share capital which has not been already called up shall not be capable of being called up, except in the event and for the purposes of the company being wound up.

and thereupon that portion of its share capital shall not be capable of being called up except in the event, and for the purposes aforesaid.

*Unlimited Liability of Directors.*

60.—(1) In a limited company the liability of the directors or managers, or of the managing director, may, if so provided by the memorandum, be unlimited.

(2) In a limited company in which the liability of a director or manager is unlimited, the directors or managers of the company (if any) and the member who proposes a person for election or appointment to the office of director or manager, shall add to that proposal a statement that the liability of the person holding that office will be unlimited, and the promoters, directors, managers, and secretary (if any) of the company, or one of them shall, before the person accepts the office or acts therein, give him notice in writing that his liability will be unlimited.

(3) If any director, manager, or proposer makes default in adding such a statement, or if any promoter, director, manager, or secretary makes default in giving such a notice, he shall be liable to a fine not exceeding one hundred pounds, and shall also be liable for any damage which the person so elected or appointed may sustain from the default, but the liability of the person elected or appointed shall not be affected by the default.

61.—(1) A limited company, if so authorised by its articles, may, by special resolution, alter its memorandum so as to render unlimited the liability of its directors or managers, or of any managing director.

(2) Upon the confirmation of any such special resolution the provisions thereof shall be as valid as if they had been originally contained in the memorandum; and a copy thereof shall be embodied in or annexed to every copy of the memorandum issued after the confirmation of the resolution.

(3) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding one pound for each copy in respect of which default is made; and every director or manager of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

PART III.

MANAGEMENT AND ADMINISTRATION.

*Office and Name.*

62.—(1) Every company shall have a registered office to which all communications and notices may be addressed.

(2) Notice of the situation of the registered office, and of any change therein, shall be given to the registrar of companies, who shall record the same.

(3) If a company carries on business without complying with the requirements of this section it shall be liable to a fine not exceeding five pounds for every day during which it so carries on business.

63.—(1) Every limited company—

(a) Shall paint or affix, and keep painted or affixed, its name on the outside of every office or place in which its business is carried on, in a conspicuous position, in letters easily legible:

*Reserve  
Liability of  
Limited  
Company.  
Unlimited  
Liability of  
Directors.*

Limited company may have directors with unlimited liability.  
[1867, ss. 4, 7.]

Special resolution of limited company making liability of directors unlimited.  
[1867, s. 8.]

*Office and  
Name.*

Registered office of company.  
[ss. 39, 40.]

Publication of name by a limited company.  
[ss. 41, 42.]

*Office and  
Name.*

- (b) shall have its name engraven in legible characters on its seal :
- (c) shall have its name mentioned in legible characters in all notices, advertisements, and other official publications of the company, and in all bills, of exchange, promissory notes, indorsements, cheques, and orders for money or goods purporting to be signed by or on behalf of the company, and in all bills of parcels, invoices, receipts, and letters of credit of the company.

(2) If a limited company does not paint or affix, and keep painted or affixed, its name in manner directed by this Act, it shall be liable to a fine not exceeding five pounds for not so painting or affixing its name, and for every day during which its name is not so kept painted or affixed, and every director and manager of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

(3) If any director, manager, or officer of a limited company or any person on its behalf, uses or authorises the use of any seal purporting to be a seal of the company whereon its name is not so engraven as aforesaid, or issues or authorises the issue of any notice, advertisement, or other official publication of the company or signs or authorises to be signed on behalf of the company any bill of exchange, promissory note, indorsement, cheque, order for money or goods, or issues or authorises to be issued any bill of parcels, invoice, receipt, or letter of credit of the company, wherein its name is not mentioned in manner aforesaid, he shall be liable to a fine not exceeding fifty pounds, and shall further be personally liable to the holder of any such bill of exchange, promissory note, cheque, or order for money or goods, for the amount thereof, unless the same be duly paid by the company.

*Meetings and  
Proceedings.*

Annual  
general  
meeting.  
[1907, s. 2,  
1, (2).]

*Meetings and Proceedings.*

64.—(1) A general meeting of every company shall be held once at the least in every calendar year, and not more than fifteen months after the holding of the last preceding general meeting and, if not so held, the company and every director, manager, secretary, and other officer of the company, who is knowingly a party to the default, shall be liable to a fine not exceeding fifty pounds.

(2) When default has been made in holding a meeting of the company in accordance with the provisions of this section, the court may, on the application of any member of the company, call or direct the calling of a general meeting of the company.

First statu-  
tory meeting  
of company.  
[1900, s. 12;  
1907, ss. 22,  
23.]

65.—(1) Every company limited by shares and registered on or after the first day of January nineteen hundred and one shall, within a period of not less than one month nor more than three months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company which shall be called the statutory meeting.

(2) The directors shall, at least seven days before the day on which the meeting is held, forward a report (in this Act called "the statutory report") to every member of the company and to every other person entitled under this Act to receive it.

(3) The statutory report shall be certified by not less than two directors of the company, or, where there are less than two directors, by the sole director and manager, and shall state—

- (a) the total number of shares allotted, distinguishing shares allotted as fully or partly paid up, otherwise than in cash, and, stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;
  - (b) the total amount of cash received by the company in respect of all the shares allotted, distinguished as aforesaid;
  - (c) an abstract of the receipts of the company on account of its capital, whether from shares or debentures, and of the payments made thereout, up to a date within seven days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made thereout, and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses of the company;
  - (d) the names, addresses, and descriptions of the directors, auditors (if any), managers (if any), and secretary of the company; and
  - (e) the particulars of any contract, the modification of which is to be submitted to the meeting for its approval together with the particulars of the modification or proposed modification.
- (4) The statutory report shall, so far as it relates to the shares allotted by the company, and to the cash received in respect of such shares, and to the receipts and payments of the company on capital account, be certified as correct by the auditors, if any, of the company.
- (5) The directors shall cause a copy of the statutory report, certified as by this section required, to be filed with the registrar of companies forthwith after the sending thereof to the members of the company.
- (6) The directors shall cause a list showing the names, descriptions, and addresses of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any member of the company during the continuance of the meeting.
- (7) The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company, or arising out of the statutory report, whether previous notice has been given or not, but no resolution of which notice has not been given in accordance with the articles may be passed.
- (8) The meeting may adjourn from time to time, and at any adjourned meeting any resolution of which notice has been given in accordance with the articles, either before or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting.
- (9) If a petition is presented to the court in manner provided by Part IV of this Act for winding up the company on the ground of default in filing the statutory report or in holding the statutory meeting, the court may, instead of directing that the company be wound up, give directions for the statutory report to be filed or a meeting to be held, or make such other order as may be just.
- (10) The provisions of this section as to the forwarding and

*Meetings and Proceedings.*

Convening of extraordinary general meeting on requisition.  
[1900, s. 13.]

filing of the statutory report shall not apply in the case of a private company.

66.—(1) Notwithstanding anything in the articles of a company, the directors of a company shall, on the requisition of the holders of not less than one-tenth of the issued share capital of the company upon which calls or other sums then due have been paid, forthwith proceed to convene an extraordinary general meeting of the company.

(2) The requisition must state the objects of the meeting, and must be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form, each signed by one or more requisitionists.

(3) If the directors do not proceed to cause a meeting to be held within twenty-one days from the date of the requisition being so deposited, the requisitionists, or a majority of them in value, may themselves convene the meeting, but any meeting so convened shall not be held after three months from the date of the deposit.

(4) If at any such meeting a resolution requiring confirmation at another meeting is passed, the directors shall forthwith convene a further extraordinary general meeting for the purpose of considering the resolution and, if thought fit, of confirming it as a special resolution; and, if the directors do not convene the meeting within seven days from the date of the passing of the first resolution, the requisitionists, or a majority of them in value, may themselves convene the meeting.

(5) Any meeting convened under this section by the requisitionists shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by directors.

Provisions as to meetings and votes.  
[s. 52.]

67. In default of, and subject to, any regulations in the articles—

(i) A meeting of a company may be called by seven days' notice in writing, served on every member in manner in which notices are required to be served by Table A in the First Schedule to this Act:

(ii) Five members may call a meeting:

(iii) Any person elected by the members present at a meeting may be chairman thereof:

(iv) Every member shall have one vote.

Representation of companies at meetings of other companies of which they are members.  
[1907, s. 24 (3).]

68. A company which is a member of another company may, by resolution of the directors, authorise any of its officials or any other person to act as its representative at any meeting of that other company, and the person so authorised shall be entitled to exercise the same powers on behalf of the company which he represents as if he were an individual shareholder of that other company.

Definitions of extraordinary and special resolution.  
[ss. 51, 129; 1907, ss. 25, 45.]

69.—(1) A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than three-fourths of such members entitled to vote as are present in person or by proxy (where proxies are allowed) at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given.

(2) A resolution shall be a special resolution when it has been—  
(a) passed in manner required for the passing of an extraordinary resolution; and

(b) confirmed by a majority of such members entitled to vote as are present in person or by proxy (where proxies

are allowed) at a subsequent general meeting, of which notice has been duly given, and held after an interval of not less than fourteen days, nor more than one month, from the date of the first meeting.

(3) At any meeting at which an extraordinary resolution is submitted to be passed or a special resolution is submitted to be passed or confirmed, a declaration of the chairman that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(4) At any meeting at which an extraordinary resolution is submitted to be passed or a special resolution is submitted to be passed or confirmed a poll may be demanded, if demanded by three persons for the time being entitled according to the articles to vote, unless the articles of the company require a demand by such number of such persons, not in any case exceeding five, as may be specified in the articles.

(5) When a poll is demanded in accordance with this section, in computing the majority on the poll reference shall be had to the number of votes to which each member is entitled by the articles of the company.

(6) For the purposes of this section notice of a meeting shall be deemed to be duly given and the meeting to be duly held when the notice is given and the meeting held in manner provided by the articles.

70.—(1) A copy of every special and extraordinary resolution shall within fifteen days from the confirmation of the special resolution, or from the passing of the extraordinary resolution, as the case may be, be printed and forwarded to the registrar of companies, who shall record the same.

Registration  
and copies  
of special  
resolutions.  
[ss. 53, 54 ;  
1907, s. 45.]

(2) Where articles have been registered, a copy of every special resolution for the time being in force shall be embodied in or annexed to every copy of the articles issued after the confirmation of the resolution.

(3) Where articles have not been registered, a copy of every special resolution shall be forwarded in print to any member at his request, on payment of one shilling or such less sum as the company may direct.

(4) If a company makes default in printing or forwarding a copy of a special or extraordinary resolution to the registrar it shall be liable to a fine not exceeding two pounds for every day during which the default continues.

(5) If a company makes default in embodying in or annexing to a copy of its articles or in forwarding in print to a member when required by this section a copy of a special resolution, it shall be liable to a fine not exceeding one pound for each copy in respect of which default is made.

(6) Every director and manager of a company who knowingly and wilfully authorises or permits any default by the company in complying with the requirements of this section shall be liable to the like penalty as is imposed by this section on the company for that default.

71.—(1) Every company shall cause minutes of all proceedings of general meetings and (where there are directors or managers) of its directors or managers to be entered in books kept for that purpose.

Minutes of  
proceedings  
of meetings  
and directors.  
[s. 67.]

(2) Any such minute if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by

*Meetings and  
Proceedings.*

the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(3) Until the contrary is proved, every general meeting of the company or meeting of directors or managers in respect of the proceedings whereof minutes have been so made shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had, and all appointments of directors, managers, or liquidators, shall be deemed to be valid.

*Appointment,  
Qualification,  
etc., of Direc-  
tors.*

*Restrictions on appoint-  
ment or advertise-  
ment of  
director.  
[1900, s. 2;  
1907, s. 1 (2)  
and Sched. II.]*

*Appointment, Qualification, etc., of Directors.*

72.—(1) A person shall not be capable of being appointed director of a company by the articles, and shall not be named as a director or proposed director of a company in any prospectus issued by or on behalf of the company, or in any statement in lieu of prospectus filed by or on behalf of a company, unless, before the registration of the articles or the publication of the prospectus, or the filing of the statement in lieu of prospectus, as the case may be, he has by himself or by his agent authorised in writing:—

- (i) Signed and filed with the registrar of companies a consent in writing to act as such director; and
- (ii) Either signed the memorandum for a number of shares not less than his qualification (if any), or signed and filed with the registrar a contract in writing to take from the company and pay for his qualification shares (if any).

(2) On the application for registration of the memorandum and articles of a company the applicant shall deliver to the registrar a list of the persons who have consented to be directors of the company, and if this list contains the names of any person who has not so consented the applicant shall be liable to a fine not exceeding fifty pounds.

(3) This section shall not apply to a private company nor to a prospectus issued by or on behalf of a company after the expiration of one year from the date at which the company is entitled to commence business.

*Qualification  
of director.  
[1900, s. 3  
1907, s. 34.]*

73.—(1) Without prejudice to the restrictions imposed by the last foregoing section, it shall be the duty of every director who is by the regulations of the company required to hold a specified share qualification, and who is not already qualified, to obtain his qualification within two months after his appointment, or such shorter time as may be fixed by the regulations of the company.

(2) The office of director of a company shall be vacated, if the director does not within two months from the date of his appointment, or within such shorter time as may be fixed by the regulations of the company, obtain his qualification, or if after the expiration of such period or shorter time he ceases at any time to hold his qualification; and a person vacating office under this section shall be incapable of being re-appointed director of the company until he has obtained his qualification.

(3) If after the expiration of the said period or shorter time any unqualified person acts as a director of the company, he shall be liable to a fine not exceeding five pounds for every day between the expiration of the said period or shorter time, and the last day on which it is proved that he acted as a director.

74. The acts of a director or manager shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification.

*Validity of  
acts of direc-  
tors. [s. 67.]*



75.—(1) Every company shall keep at its registered office a register containing the names and addresses and the occupations of its directors or managers, and send to the registrar of companies a copy thereof, and from time to time notify to the registrar any change among its directors or managers.

(2) If default is made in compliance with this section, the company shall be liable to a fine not exceeding five pounds for every day during which the default continues; and every director and manager of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

*Contracts, etc.*

76.—(1) Contracts on behalf of a company may be made as follows; (that is to say):—

- (i) Any contract which if made between private persons would be by law required to be in writing, and if made according to English law to be under seal, may be made on behalf of the company, in writing under the common seal of the company, and may in the same manner be varied or discharged;
- (ii) Any contract which if made between private persons would be, by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the company in writing signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged;
- (iii) Any contract which if made between private persons would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the company by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(2) All contracts made according to this section shall be effectual in law, and shall bind the company and its successors and all other parties thereto, their heirs, executors, or administrators as the case may be.

(3) Any deed to which a company is a party shall be held to be validly executed in Scotland on behalf of the company if it is executed in terms of the provisions of this Act or is sealed with the common seal of the company and subscribed on behalf of the company by two of the directors and the secretary of the company, and such subscription on behalf of the company shall be equally binding whether attested by witnesses or not.

77. A bill of exchange or promissory note shall be deemed to have been made, accepted, or indorsed on behalf of a company if made, accepted, or indorsed in the name of, or by or on behalf or on account of the company by any person acting under its authority.

78. A company may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place not situate in the United Kingdom; and every deed signed by such attorney, on behalf of the company, and under his seal, shall bind the company, and have the same effect as if it were under its common seal.

79.—(1) A company whose objects require or comprise the transaction of business in foreign countries may, if authorised by its articles, have for use in any territory, district, or place not situate in the United Kingdom, an official seal, which shall be

*Appointment  
Qualification,  
etc., of Direc-  
tors.*

List of  
directors to  
be sent to  
registrar.  
[ss. 45, 46;  
1900, s. 20.]

*Contracts, etc.*

Form of  
contracts.  
[1867, s. 37.]

*Bills of ex-  
change and  
promissory  
notes.*

[s. 47.]

*Execution of  
deeds abroad.*  
[s. 55.]

*Power for  
company to  
have official  
seal for use  
abroad.* [1864]

*Contracts, etc.*

a facsimile of the common seal of the company, with the addition on its face of the name of every territory, district, or place, where it is to be used.

(2) A company having such an official seal may, by writing under its common seal, authorise any person appointed for the purpose in any territory, district, or place not situate in the United Kingdom, to affix the same to any deed, or other document to which the company is party in that territory, district, or place.

(3) The authority of any such agent shall, as between the company and any person dealing with the agent, continue during the period, if any, mentioned in the instrument conferring the authority, or if no period is there mentioned, then until notice of the revocation or determination of the agent's authority has been given to the person dealing with him.

(4) The person affixing any such official seal shall, by writing under his hand, on the deed or other document to which the seal is affixed, certify the date and place of affixing the same.

(5) A deed or other document to which an official seal is duly affixed shall bind the company as if it had been sealed with the common seal of the company.

*Prospectus.*

Filing of  
prospectus.  
[1900, s. 9;  
1907, s. 3.]

*Prospectus.*

80.—(1) Every prospectus issued by or on behalf of a company or in relation to any intended company shall be dated, and that date shall, unless the contrary be proved, be taken as the date of publication of the prospectus.

(2) A copy of every such prospectus, signed by every person who is named therein as a director or proposed director of the company, or by his agent authorised in writing, shall be filed for registration with the registrar of companies on or before the date of its publication, and no such prospectus shall be issued until a copy thereof has been so filed for registration.

(3) The registrar shall not register any prospectus unless it is dated, and the copy thereof signed, in manner required by this section.

(4) Every prospectus shall state on the face of it that a copy has been filed for registration as required by this section.

(5) If a prospectus is issued without a copy thereof being so filed, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a fine not exceeding five pounds for every day from the date of the issue of the prospectus until a copy thereof is so filed.

81.—(1) Every prospectus issued by or on behalf of a company, or by or on behalf of any person who is or has been engaged or interested in the formation of the company, must state—

- (a) the contents of the memorandum, with the names, descriptions, and addresses of the signatories, and the number of shares subscribed for by them respectively; and the number of founders' or management or deferred shares, if any, and the nature and extent of the interest of the holders in the property and profits of the company; and
- (b) the number of shares, if any, fixed by the articles as the qualification of a director, and any provision in the articles as to the remuneration of the directors; and
- (c) the names, descriptions, and addresses of the directors or proposed directors; and

Specific requirements as to particulars of prospectus.  
[1900, s. 10;  
1907, s. 2.]

- (d) the minimum subscription on which the directors may proceed to allotment, and the amount payable on application and allotment on each share; and in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment made within the two preceding years, and the amount actually allotted, and the amount, if any, paid on the shares so allotted; and
- (e) the number and amount of shares and debentures which within the two preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or are proposed or intended to be issued; and
- (f) the names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of issue of the prospectus, and the amount payable in cash, shares, or debentures, to the vendor, and where there is more than one separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor: Provided that where the vendors or any of them are a firm the members of the firm shall not be treated as separate vendors; and
- (g) the amount (if any) paid or payable as purchase money in cash, shares, or debentures, for any such property as aforesaid, specifying the amount (if any) payable for goodwill; and
- (h) the amount (if any) paid within the two preceding years, or payable, as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in, or debentures of, the company, or the rate of any such commission: Provided that it shall not be necessary to state the commission payable, to sub-underwriters; and
- (i) the amount or estimated amount of preliminary expenses; and
- (j) the amount paid within the two preceding years or intended to be paid to any promoter, and the consideration for any such payment; and
- (k) the dates of and parties to every material contract, and a reasonable time and place at which any material contract or a copy thereof may be inspected: Provided that this requirement shall not apply to a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company, or to any contract entered into more than two years before the date of issue of the prospectus; and
- (l) the names and addresses of the auditors (if any) of the company; and
- (m) full particulars of the nature and extent of the interest (if any) of every director in the promotion of, or in the property proposed to be acquired by, the company, or where the interest of such a director consists in being

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a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company; and

- (n) where the company is a company having shares of more than one class, the right of voting at meetings of the company conferred by the several classes of shares respectively.

(2) For the purposes of this section every person shall be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property to be acquired by the company, in any case where—

- (a) the purchase money is not fully paid at the date of issue of the prospectus; or
- (b) the purchase money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus; or
- (c) the contract depends for its validity or fulfilment on the result of that issue.

(3) Where any of the property to be acquired by the company is to be taken on lease, this section shall apply as if the expression "vendor" included the lessor, and the expression "purchase money" included the consideration for the lease, and the expression "sub-purchaser" included a sub-lessee.

(4) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document, or matter not specifically referred to in the prospectus, shall be void.

(5) Where any such prospectus as is mentioned in this section is published as a newspaper advertisement, it shall not be necessary in the advertisement to specify the contents of the memorandum or the signatories thereto, and the number of shares subscribed for by them.

(6) In the event of non-compliance with any of the requirements of this section, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance, if he proves that—

- (a) as regards any matter not disclosed, he was not cognisant thereof; or
- (b) the non-compliance arose from an honest mistake of fact on his part:

Provided that in the event of non-compliance with the requirements contained in paragraph (m) of subsection (1) of this section no director or other person shall incur any liability in respect of the non-compliance unless it be proved that he had knowledge of the matters not disclosed.

(7) This section shall not apply to a circular or notice inviting existing members or debenture holders of a company to subscribe either for shares or for debentures of the company, whether with or without the right to renounce in favour of other persons, but subject as aforesaid, this section shall apply to any prospectus whether issued on or with reference to the formation of a company or subsequently.

*Prospectus.*

(8) The requirements of this section as to the memorandum and the qualification, remuneration, and interest of directors, the names, descriptions, and addresses of directors or proposed directors, and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date at which the company is entitled to commence business.

(9) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Act apart from this section.

82.—(1) A company which does not issue a prospectus on or with reference to its formation, shall not allot any of its shares or debentures unless before the first allotment of either shares or debentures there has been filed with the registrar of companies a statement in lieu of prospectus signed by every person who is named therein as a director or a proposed director of the company, or by his agent authorised in writing, in the form and containing the particulars set out in the Second Schedule to this Act.

Obligations of companies where no prospectus is issued.  
[1907, s. 1 (1) (5).]

(2) This section shall not apply to a private company, or to a company which has allotted any shares or debentures before the first day of July nineteen hundred and eight.

83. A company shall not previously to the statutory meeting vary the terms of a contract referred to in the prospectus or statement in lieu of prospectus, except subject to the approval of the statutory meeting.

Restriction on alteration of terms mentioned in prospectus or statement in lieu of prospectus.  
[1900, s. 11 1907, s. 1 (2)]

84.—(1) Where a prospectus invites persons to subscribe for shares in or debentures of a company, every person who is a director of the company at the time of the issue of the prospectus, and every person who has authorised the naming of him and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time, and every promoter of the company, and every person who has authorised the issue of the prospectus, shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for the loss or damage they may have sustained by reason of any untrue statement therein, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved—

Liability for statements in prospectus.  
[1890, c. 64. ss. 3-5; 1907 s. 33.]

- (a) With respect to every untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, that he had reasonable ground to believe, and did up to the time of the allotment of the shares or debentures, as the case may be, believe, that the statement was true; and
- (b) With respect to every untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation. Provided that the director, person named as director, promoter, or person who authorised the issue of the prospectus, shall be liable to pay compensation as aforesaid if it is proved that he had no reasonable ground to believe that the person making the statement, report, or valuation was competent to make it; and

*Prospectus.*

- (c) With respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy or extract from a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document :  
or unless it is proved—
- (i) that having consented to become a director of the company he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent ; or
  - (ii) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was issued without his knowledge or consent ; or
  - (iii) that after the issue of prospectus and before allotment thereunder, he on becoming aware of any untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of the withdrawal, and of the reason therefor.
- (2) Where a company existing on the eighteenth day of August one thousand eight hundred and ninety, has issued shares or debentures, and for the purpose of obtaining further capital by subscriptions for shares or debentures issues a prospectus, a director shall not be liable in respect of any statement therein, unless he has authorised the issue of the prospectus, or has adopted or ratified it.
- (3) Where the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorised or consented to the issue thereof, the directors of the company, except any without whose knowledge or consent the prospectus was issued, and any other person who authorised the issue thereof, shall be liable to indemnify the person named as aforesaid against all damages, costs, and expenses to which he may be made liable by reason of his name having been inserted in the prospectus, or in defending himself against any action or legal proceedings brought against him in respect thereof.
- (4) Every person who by reason of his being a director, or named as a director or as having agreed to become a director, or of his having authorised the issue of the prospectus, becomes liable to make any payment under this section may recover contribution, as in cases of contract, from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable was, and that other person was not, guilty of fraudulent misrepresentation.
- (5) For the purposes of this section—  
The expression "promoter" means a promoter who was a party to the preparation of the prospectus, or of the portion thereof containing the untrue statement, but does not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company ;  
The expression "expert" includes engineer, valuer, accountant, and any other person whose profession gives authority to a statement made by him.

*Allotment.*

85.—(1) No allotment shall be made of any share capital of a company offered to the public for subscription, unless the following conditions have been complied with, namely:—

- (a) the amount (if any) fixed by the memorandum or articles and named in the prospectus as the minimum subscription upon which the directors may proceed to allotment; or
- (b) if no amount is so fixed and named, then the whole amount of the share capital so offered for subscription, has been subscribed, and the sum payable on application for the amount so fixed and named, or for the whole amount offered for subscription, has been paid to and received by the company.

(2) The amount so fixed and named and the whole amount aforesaid shall be reckoned exclusively of any amount payable otherwise than in cash, and is in this Act referred to as the minimum subscription.

(3) The amount payable on application on each share shall not be less than five per cent. of the nominal amount of the share.

(4) If the conditions aforesaid have not been complied with on the expiration of forty days after the first issue of the prospectus, all money received from applicants for shares shall be forthwith repaid to them without interest, and, if any such money is not so repaid within forty-eight days after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of five per centum per annum from the expiration of the forty-eighth day:

Provided that a director shall not be liable if he proves that the loss of the money was not due to any misconduct or negligence on his part.

(5) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

(6) This section, except subsection (3) thereof, shall not apply to any allotment of shares subsequent to the first allotment of shares offered to the public for subscription.

(7) In the case of the first allotment of share capital payable in cash of a company which does not issue any invitation to the public to subscribe for its shares, no allotment shall be made unless the minimum subscription (that is to say):—

- (a) the amount (if any) fixed by the memorandum or articles and named in the statement in lieu of prospectus as the minimum subscription upon which the directors may proceed to allotment; or
- (b) if no amount is so fixed and named, then the whole amount of the share capital other than that issued or agreed to be issued as fully or partly paid up otherwise than in cash, has been subscribed and an amount not less than five per cent. of the nominal amount of each share payable in cash has been paid to and received by the company.

This subsection shall not apply to a private company or to a company which has allotted any shares or debentures before the first day of July nineteen hundred and eight.

86.—(1) An allotment made by a company to an applicant in contravention of the provisions of the last foregoing section shall be voidable at the instance of the applicant within one month after the holding of the statutory meeting of the company

Restriction  
as to allot-  
ment.  
[1900, s. 4;  
1907, s. 1 (3).]

Effect of  
irregular  
allotment.  
[1900, s. 5.]

*Allotment.*

Restrictions  
on com-  
mencement  
of business.  
[1900, s. 6;  
1907, ss. 1 (2),  
4, and Sched.  
II.]

and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.

(2) If any director of a company knowingly contravenes or permits or authorises the contravention of any of the provisions of the last foregoing section with respect to allotment he shall be liable to compensate the company and the allottee respectively for any loss, damages, or costs which the company or the allottee may have sustained or incurred thereby: Provided that proceedings to recover any such loss, damages, or costs shall not be commenced after the expiration of two years from the date of the allotment.

87.—(1) A company shall not commence any business or exercise any borrowing powers unless—

- (a) shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription; and
- (b) every director of the company has paid to the company on each of the shares taken or contracted to be taken by him, and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription, or in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, on the shares payable in cash; and
- (c) there has been filed with the registrar of companies a statutory declaration by the secretary or one of the directors, in the prescribed form, that the aforesaid conditions have been complied with; and
- (d) in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, there has been filed with the registrar of companies a statement in lieu of prospectus.

(2) The registrar of companies shall, on the filing of this statutory declaration, certify that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled:

Provided that in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares the registrar shall not give such a certificate unless a statement in lieu of prospectus has been filed with him.

(3) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

(4) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares and debentures or the receipt of any money payable on application for debentures.

(5) If any company commences business or exercises borrowing powers in contravention of this section, every person who is responsible for the contravention shall, without prejudice to any other liability, be liable to a fine not exceeding fifty pounds for every day during which the contravention continues.

(6) Nothing in this section shall apply to a private company, or to a company registered before the first day of January nineteen hundred and one, or to a company registered before the first day of July nineteen hundred and eight which does not issue a prospectus inviting the public to subscribe for its shares.



88.—(1) Whenever a company limited by shares makes any allotment of its shares, the company shall within one month thereafter file with the registrar of companies—

- (a) a return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, addresses, and descriptions of the allottees, and the amount (if any) paid or due and payable on each share; and
- (b) in the case of shares allotted as fully or partly paid up otherwise than in cash, a contract in writing constituting the title of the allottee to the allotment, together with any contract of sale, or for services or other consideration in respect of which that allotment was made, such contracts being duly stamped, and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted.

(2) Where such a contract as above mentioned is not reduced to writing, the company shall within one month after the allotment file with the registrar of companies the prescribed particulars of the contract stamped with the same stamp duty as would have been payable if the contract had been reduced to writing, and those particulars shall be deemed to be an instrument within the meaning of the Stamp Act, 1891, and the registrar may, as a condition of filing the particulars, require that the duty payable thereon be adjudicated under section twelve of that Act.

(3) If default is made in complying with the requirements of this section, every director, manager, secretary, or other officer of the company, who is knowingly a party to the default, shall be liable to a fine not exceeding fifty pounds for every day during which the default continues:

Provided that, in case of default in filing with the registrar of companies within one month after the allotment any document required to be filed by this section, the company, or any person liable for the default, may apply to the court for relief, and the court, if satisfied that the omission to file the document was accidental or due to inadvertence or that it is just and equitable to grant relief, may make an order extending the time for the filing of the document for such period as the court may think proper.

#### *Commissions and Discounts.*

89.—(1) It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, if the payment of the commission is authorised by the articles, and the commission paid or agreed to be paid does not exceed the amount or rate so authorised, and if the amount or rate per cent. of the commission paid or agreed to be paid is—

- (a) in the case of shares offered to the public for subscription, disclosed in the prospectus; or
- (b) in the case of shares not offered to the public for subscription, disclosed in the statement in lieu of prospectus, or in a statement in the prescribed form signed in like manner as a statement in lieu of prospectus and filed

#### *Allotment.*

Return as to  
allotments.  
[1900, s. 7;  
1907, s. 6.]

54 & 55 Vict.  
c. 39.

#### *Commissions and Discounts.*

Power to pay  
certain com-  
missions, and  
prohibition  
of payment  
of all other  
commis-  
sions, dis-  
counts, &c.  
[1900, s. 8;  
1907, s. 8.]

*Commissions  
and Discounts.*

with the registrar of companies, and where a circular or notice, not being a prospectus, inviting subscription for the shares is issued, also disclosed in that circular or notice.

(2) Save as aforesaid, no company shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount, or allowance, to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, whether the shares or money be so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or the money be paid out of the nominal purchase money or contract price, or otherwise.

(3) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay, and a vendor to, promoter of, or other person who receives payment in money or shares from, a company shall have and shall be deemed always to have had power to apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the company, would have been legal under this section.

90. Where a company has paid any sums by way of commission in respect of any shares or debentures, or allowed any sums by way of discount in respect of any debentures, the total amount so paid or allowed, or so much thereof as has not been written off, shall be stated in every balance sheet of the company until the whole amount thereof has been written off.

*Statement in  
balance sheet  
as to com-  
missions and  
discounts.*

[1907, s. 7.]

*Payment of  
Interest out of  
Capital.*

*Power of  
company to  
pay interest  
out of capital  
in certain  
cases.*

[1907, s. 9.]

#### *Payment of Interest out of Capital.*

91. Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the same to capital as part of the cost of construction of the work or building, or the provision of plant:

Provided that—

- (1) No such payment shall be made unless the same is authorised by the articles or by special resolution:
- (2) No such payment, whether authorised by the articles or by special resolution, shall be made without the previous sanction of the Board of Trade:
- (3) Before sanctioning any such payment the Board of Trade may, at the expense of the company, appoint a person to inquire and report to them as to the circumstances of the case, and may, before making the appointment, require the company to give security for the payment of the costs of the inquiry:
- (4) The payment shall be made only for such period as may be determined by the Board of Trade; and such period shall in no case extend beyond the close of the half year next after the half year during which the works or buildings have been actually completed or the plant provided:

- (5) The rate of interest shall in no case exceed four per cent. per annum or such lower rate as may for the time being be prescribed by Order in Council:
- (6) The payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid:
- (7) The accounts of the company shall show the share capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate:
- (8) Nothing in this section shall affect any company to which the Indian Railways Act, 1894, as amended by any subsequent enactment, applies.

*Payment of  
Interest out of  
Capital.*

57 & 58 Vict.  
c. 12.

*Certificates of Shares, etc.*

92. (1) Every company shall, within two months after the allotment of any of its shares, debentures, or debenture stock, and within two months after the registration of the transfer of any such shares, debentures, or debenture stock, complete and have ready for delivery the certificates of all shares, the debentures, and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures, or debenture stock otherwise provide.

*Certificates of  
Shares, etc.*

*Limitation  
of time for  
issue of cer-  
tificates.*

[1907, s. 5.]

(2) If default is made in complying with the requirements of this section, the company, and every director, manager, secretary, and other officer of the company who is knowingly a party to the default, shall be liable to a fine not exceeding five pounds for every day during which the default continues.

*Information as to Mortgages, Charges, etc.*

93.—(1) Every mortgage or charge created after the first day of July nineteen hundred and eight by a company registered in England or Ireland and being either—

*Information as  
to Mortgages,  
Charges, etc.*

*Registration  
of mortgages  
and charges  
in England  
and Ireland.  
[1900, s. 34 (2);  
1907, ss. 10, 52  
(1).]*

- (a) a mortgage or charge for the purpose of securing any issue of debentures; or
- (b) a mortgage or charge on uncalled share capital of the company; or
- (c) a mortgage or charge created or evidenced by an instrument which, if executed by an individual, would require registration as a bill of sale; or
- (d) a mortgage or charge on any land, wherever situate, or any interest therein; or
- (e) a mortgage or charge on any book debts of the company;

(f) a floating charge on the undertaking or property of the company, shall, so far as any security on the company's property or undertaking is thereby conferred, be void against the liquidator and any creditor of the company, unless the prescribed particulars of the mortgage or charge, together with the instrument (if any) by which the mortgage or charge is created or evidenced, are delivered to or received by the registrar of companies for registration in manner required by this Act within twenty-one days after the date of its creation, but without prejudice to any contract or obligation for repayment of the money thereby

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secured, and when a mortgage or charge becomes void under this section the money secured thereby shall immediately become payable :

Provided that—

- (i) in the case of a mortgage or charge created out of the United Kingdom comprising solely property situate outside the United Kingdom, the delivery to and the receipt by the registrar of a copy of the instrument by which the mortgage or charge is created or evidenced, verified in the prescribed manner, shall have the same effect for the purposes of this section as the delivery and receipt of the instrument itself, and twenty-one days after the date on which the instrument or copy could, in due course of post, and if despatched with due diligence, have been received in the United Kingdom, shall be substituted for twenty-one days after the date of the creation of the mortgage or charge, as the time within which the particulars and instrument or copy are to be delivered to the registrar ; and
- where the mortgage or charge is created in the United Kingdom but comprises property outside the United Kingdom, the instrument creating or purporting to create the mortgage or charge may be sent for registration notwithstanding that further proceedings may be necessary to make the mortgage or charge valid or effectual according to the law of the country in which the property is situate ; and
- (iii) where a negotiable instrument has been given to secure the payment of any book debts of a company, the deposit of the instrument for the purpose of securing an advance to the company shall not for the purposes of this section be treated as a mortgage or charge on those book debts ; and
- (iv) the holding of debentures entitling the holder to a charge on land shall not be deemed to be an interest in land.

(2) The registrar shall keep, with respect to each company, a register in the prescribed form of all the mortgages and charges created by the company after the first day of July nineteen hundred and eight and requiring registration under this section, and shall, on payment of the prescribed fee, enter in the register, with respect to every such mortgage or charge, the date of creation, the amount secured by it, short particulars of the property mortgaged or charged, and the names of the mortgagees or persons entitled to the charge.

(3) Where a series of debentures containing, or giving by reference to any other instrument, any charge to the benefit of which the debenture holders of that series are entitled *pari passu* is created by a company, it shall be sufficient if there are delivered to or received by the registrar within twenty-one days after the execution of the deed containing the charge or, if there is no such deed, after the execution of any debentures of the series the following particulars :—

- (a) the total amount secured by the whole series ; and
- (b) the dates of the resolutions authorising the issue of the series and the date of the covering deed, if any, by which the security is created or defined ; and

(c) a general description of the property charged; and

(d) the names of the trustees, if any, for the debenture holders; together with the deed containing the charge, or, if there is no such deed, one of the debentures of the series, and the registrar shall, on payment of the prescribed fee, enter those particulars in the register:

Provided that, where more than one issue is made of debentures in the series, there shall be sent to the registrar for entry in the register particulars of the date and amount of each issue, but an omission to do this shall not affect the validity of the debentures issued.

(4) Where any commission, allowance, or discount has been paid or made either directly or indirectly by the company to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any debentures of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such debentures, the particulars required to be sent for registration under this section shall include particulars as to the amount or rate per cent. of the commission, discount, or allowance so paid or made, but an omission to do this shall not affect the validity of the debentures issued:

Provided that the deposit of any debentures as security for any debt of the company shall not for the purposes of this provision be treated as the issue of the debentures at a discount.

(5) The registrar shall give a certificate under his hand of the registration of any mortgage or charge registered in pursuance of this section, stating the amount thereby secured, and the certificate shall be conclusive evidence that the requirements of this section as to registration have been complied with.

(6) The company shall cause a copy of every certificate of registration given under this section to be indorsed on every debenture or certificate of debenture stock which is issued by the company, and the payment of which is secured by the mortgage or charge so registered:

Provided that nothing in this subsection shall be construed as requiring a company to cause a certificate of registration of any mortgage or charge to be indorsed on any debenture or certificate of debenture stock which has been issued by the company before the mortgage or charge was created.

(7) It shall be the duty of the company to send to the registrar for registration the particulars of every mortgage or charge created by the company and of the issues of debentures of a series, requiring registration under this section, but registration of any such mortgage or charge may be effected by the application of any person interested therein.

Where the registration is effected on the application of some person other than the company, that person shall be entitled to recover from the company the amount of any fees properly paid by him to the registrar on the registration.

(8) The register kept in pursuance of this section shall be open to inspection by any person on payment of the prescribed fee, not exceeding one shilling for each inspection.

(9) Every company shall cause a copy of every instrument creating any mortgage or charge requiring registration under this

*Information as  
to Mortgages,  
Charges, etc.*

section to be kept at the registered office of the company: Provided that, in the case of a series of uniform debentures, a copy of one such debenture shall be sufficient.

*Registration  
of enforce-  
ment of  
security.  
[1907, s. 11.]*

94.—(1) If any person obtains an order for the appointment of a receiver or manager of the property of a company, or appoints such a receiver or manager under any powers contained in any instrument, he shall within seven days from the date of the order or of the appointment under the powers contained in the instrument give notice of the fact to the registrar of companies, and the registrar shall, on payment of the prescribed fee, enter the fact in the register of mortgages and charges.

(2) If any person makes default in complying with the requirements of this section he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

*Filing of ac-  
counts of re-  
ceivers and  
managers.  
[1907, s. 41.]*

95.—(1) Every receiver or manager of the property of a company who has been appointed under the powers contained in any instrument, and who has taken possession, shall, once in every half year while he remains in possession, and also on ceasing to act as receiver or manager, file with the registrar of companies an abstract in the prescribed form of his receipts and payments during the period to which the abstract relates, and shall also on ceasing to act as receiver or manager file with the registrar notice to that effect, and the registrar shall enter the notice in the register of mortgages and charges.

(2) Every receiver or manager who makes default in complying with the provisions of this section shall be liable to a fine not exceeding fifty pounds.

*Rectification  
of register  
of mortgages.  
[1900, s. 15.]*

96. A judge of the High Court, on being satisfied that the omission to register a mortgage or charge within the time hereinbefore required, or that the omission or misstatement of any particular with respect to any such mortgage or charge, was accidental, or due to inadvertence or to some other sufficient cause, or is not of a nature to prejudice the position of creditors or shareholders of the company, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any person interested, and on such terms and conditions as seem to the judge just and expedient, order that the time for registration be extended, or, as the case may be, that the omission or misstatement be rectified.

*Entry of  
satisfaction.  
[1900, s. 16.]*

97. The registrar of companies may, on evidence being given to his satisfaction that the debt for which any registered mortgage or charge was given has been paid or satisfied, order that a memorandum of satisfaction be entered on the register, and shall if required furnish the company with a copy thereof.

*Index to  
register of  
mortgages  
and charges.  
[1900, s. 17.]  
Penalties.  
[1900, s. 18;  
1907, s. 10(6).]*

98. The registrar of companies shall keep a chronological index, in the prescribed form and with the prescribed particulars, of the mortgages or charges registered with him under this Act.

99.—(1) If any company makes default in sending to the registrar of companies for registration the particulars of any mortgage or charge created by the company, and of the issues of debentures of a series, requiring registration with the registrar

*Information as to Mortgages, Charges, etc.*

under the foregoing provisions of this Act, then, unless the registration has been effected on the application of some other person, the company, and every director, manager, secretary, or other person who is knowingly a party to the default, shall on conviction be liable to a fine not exceeding fifty pounds for every day during which the default continues.

(2) Subject as aforesaid, if any company makes default in complying with any of the requirements of this Act as to the registration with the registrar of any mortgage or charge created by the company, the company and every director, manager, and other officer of the company, who knowingly and wilfully authorised or permitted the default shall, without prejudice to any other liability, be liable on summary conviction to a fine not exceeding one hundred pounds.

(3) If any person knowingly and wilfully authorises or permits the delivery of any debenture or certificate of debenture stock requiring registration with the registrar under the foregoing provisions of this Act, without a copy of the certificate of registration being indorsed upon it, he shall, without prejudice to any other liability, be liable on summary conviction to a fine not exceeding one hundred pounds.

100.—(1) Every limited company shall keep a register of mortgages and enter therein all mortgages and charges specifically affecting property of the company, giving in each case a short description of the property mortgaged, or charged, the amount of the mortgage or charge, and (except in the case of securities to bearer) the names of the mortgagees or persons entitled thereto.

*Company's register of mortgages.*  
[s. 43.]

(2) If any director, manager, or other officer of the company knowingly and wilfully authorises or permits the omission of any entry required to be made in pursuance of this section, he shall be liable to a fine not exceeding fifty pounds.

101.—(1) The copies of instruments creating any mortgage or charge requiring registration under this Act with the registrar of companies, and the register of mortgages kept in pursuance of the last foregoing section, shall be open at all reasonable times to the inspection of any creditor or member of the company without fee, and the register of mortgages shall also be open to the inspection of any other person on payment of such fee, not exceeding one shilling for each inspection, as the company may prescribe.

*Right to inspect copies of instrument creating mortgages and charges and company's register of mortgages.*  
[s. 43; 1907, ss. 19, 17.]

(2) If inspection of the said copies or register is refused, any officer of the company refusing inspection, and every director and manager of the company authorising or knowingly and wilfully permitting the refusal, shall be liable to a fine not exceeding five pounds, and a further fine not exceeding two pounds for every day during which the refusal continues; and in addition to the above penalty as respects companies registered in England or Ireland, any judge of the High Court sitting in chambers, or the judge of the court exercising the stannaries jurisdiction in the case of companies subject to that jurisdiction, may by order compel an immediate inspection of the copies or register.

*Right of debenture holders to inspect the registers of debenture holders and to have copies of trust deed.*  
[1907, s. 18.]

102.—(1) Every register of holders of debentures of a company shall, except when closed in accordance with the articles, during such period or periods (not exceeding in the whole thirty days

*Information as to Mortgages, Charges, etc.*

in any year) as may be specified in the articles be open to the inspection of the registered holder of any such debentures, and of any holder of shares in the company, but subject to such reasonable restrictions as the company may in general meeting impose, so that at least two hours in each day are appointed for inspection, and every such holder may require a copy of the register or any part thereof on payment of sixpence for every one hundred words required to be copied.

(2) A copy of any trust deed for securing any issue of debentures shall be forwarded to every holder of any such debentures at his request on payment in the case of a printed trust deed of the sum of one shilling or such less sum as may be prescribed by the company, or, where the trust deed has not been printed, on payment of sixpence for every one hundred words required to be copied.

(3) If inspection is refused, or a copy is refused or not forwarded, the company shall be liable to a fine not exceeding five pounds, and to a further fine not exceeding two pounds for every day during which the refusal continues, and every director, manager, secretary, or other officer of the company who knowingly authorises or permits the refusal shall incur the like penalty.

*Debentures and Floating Charges, etc.*

*Perpetual debentures.*  
[1907, s. 14.]

#### *Debentures and Floating Charges.*

103. A condition contained in any debentures or in any deed for securing any debentures, whether issued or executed before or after the passing of this Act, shall not be invalid by reason only that thereby the debentures are made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long, any rule of equity to the contrary notwithstanding.

*Power to re-issue re-deemed debentures in certain cases.*  
[1907, s. 15.]

104.—(1) Where either before or after the passing of this Act a company has redeemed any debentures previously issued, the company, unless the articles or the conditions of issue expressly otherwise provide, or unless the debentures have been redeemed in pursuance of any obligation on the company so to do (not being an obligation enforceable only by the person to whom the redeemed debentures were issued or his assigns) shall have power, and shall be deemed always to have had power, to keep the debentures alive for the purposes of re-issue, and where a company has purported to exercise such a power the company shall have power, and shall be deemed always to have had power, to re-issue the debentures either by re-issuing the same debentures or by issuing other debentures in their place, and upon such a re-issue the person entitled to the debentures shall have, and shall be deemed always to have had, the same rights and priorities as if the debentures had not previously been issued.

(2) Where with the object of keeping debentures alive for the purpose of re-issue they have either before or after the passing of this Act been transferred to a nominee of the company, a transfer from that nominee shall be deemed to be a re-issue for the purposes of this section.

(3) Where a company has either before or after the passing of this Act deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of



the account of the Company having ceased to be in debit whilst the debentures remained so deposited.

(4) The re-issue of a debenture or the issue of another debenture in its place under the power by this section given to, or deemed to have been possessed by, a company, whether the re-issue or issue was made before or after the passing of this Act, shall be treated as the issue of a new debenture for the purposes of stamp duty, but it shall not be so treated for the purposes of any provision limiting the amount or number of debentures to be issued :

Provided that any person lending money on the security of a debenture re-issued under this section, which appears to be duly stamped may give the debenture in evidence in any proceedings for enforcing his security without payment of the stamp duty or any penalty in respect thereof, unless he had notice or, but for his negligence, might have discovered, that the debenture was not duly stamped, but in any such case the company shall be liable to pay the proper stamp duty and penalty.

(5) Nothing in this section shall prejudice—

(a) the operation of any judgment or order of a court of competent jurisdiction pronounced or made before the seventh day of March nineteen hundred and seven as between the parties to the proceedings in which the judgment was pronounced or the order made, and any appeal from any such judgment or order shall be decided as if this Act had not been passed ; or

(b) any power to issue debentures in the place of any debentures paid off or otherwise satisfied or extinguished reserved to a company by its debentures or the securities for the same.

105. A contract with a company to take up and pay for any debentures of the company may be enforced by an order for specific performance.

106. Notwithstanding anything contained in the statute of the Scots Parliament of 1696, chapter twenty-five, debentures to bearer issued in Scotland are declared to be valid and binding according to their terms.

107.—(1) Where, in the case of a company registered in England or Ireland, either a receiver is appointed on behalf of the holders of any debentures of the company secured by a floating charge, or possession is taken by or on behalf of those debenture holders of any property comprised in or subject to the charge, then, if the company is not at the time in course of being wound up, the debts which in every winding-up are under the provisions of Part IV of this Act relating to preferential payments to be paid in priority to all other debts, shall be paid forthwith out of any assets coming to the hands of the receiver or other person taking possession as aforesaid in priority to any claim for principal or interest in respect of the debentures.

(2) The periods of time mentioned in the said provisions of Part IV of this Act shall be reckoned from the date of the appointment of the receiver or of possession being taken as aforesaid, as the case may be.

(3) Any payments made under this section shall be recouped as far as may be out of the assets of the company available for payment of general creditors.

Specific performance of contract to subscribe for debentures. [1907, s. 16.]  
Validity of debentures to bearer in Scotland. [1907, s. 36.]  
Payments of certain debts out of assets subject to floating charge in priority to claims under the charge. [60 & 61 Vict. c. 19, s. 3.]

*Statement to be published by Banking and certain other Companies.*

Certain companies to publish statement in schedule.  
[s. 44.]

*Statement to be published by Banking and certain other Companies.*

108.—(1) Every company being a limited banking company or an insurance company or a deposit, provident, or benefit society shall, before it commences business, and also on the first Monday in February and the first Tuesday in August in every year during which it carries on business, make a statement in the form marked C in the First Schedule to this Act, or as near thereto as circumstances will admit.

(2) A copy of the statement shall be put up in a conspicuous place in the registered office of the company, and in every branch office or place where the business of the company is carried on.

(3) Every member and every creditor of the company shall be entitled to a copy of the statement, on payment of a sum not exceeding sixpence.

(4) If default is made in compliance with this section, the company shall be liable to a fine not exceeding five pounds for every day during which the default continues; and every director and manager of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

s. 31

(5) For the purposes of this Act a company that carries on the business of insurance in common with any other business or businesses shall be deemed to be an insurance company.

[1907, s. 40.]  
33 & 34 Vict.  
c. 61.  
34 & 35 Vict.  
c. 58.  
35 & 36 Vict.  
c. 41.

(6) This section shall not apply to any life assurance company nor any other assurance company to which the provisions of the Life Assurance Companies Acts, 1870 to 1872, as to the annual statements to be made by such a company, apply with or without modifications, if the company complies with those provisions.

*Inspection and Audit.*

Investigation of affairs of company by Board of Trade inspectors.  
[ss. 56-59;  
1907, s. 44.]

*Inspection and Audit.*

109.—(1) The Board of Trade may appoint one or more competent inspectors to investigate the affairs of any company and to report thereon in such manner as the Board direct—

- (i) In the case of a banking company having a share capital, on the application of members holding not less than one-third of the shares issued:
- (ii) In the case of any other company having a share capital, on the application of members holding not less than one-tenth of the shares issued:
- (iii) In the case of a company not having a share capital, on the application of not less than one-fifth in number of the persons on the company's register of members.

(2) The application shall be supported by such evidence as the Board of Trade may require for the purpose of showing that the applicants have good reason for, and are not actuated by malicious motives in requiring the investigation; and the Board of Trade may, before appointing an inspector, require the applicants to give security for payment of the costs of the inquiry.

(3) It shall be the duty of all officers and agents of the company to produce to the inspectors all books and documents in their custody or power.

(4) An inspector may examine on oath the officers and agents of the company in relation to its business, and may administer an oath accordingly.

*Inspection  
and Audit.*

(5) If any officer or agent refuses to produce any book or document which under this section it is his duty to produce, or to answer any question relating to the affairs of the company, he shall be liable to a fine not exceeding five pounds in respect of each offence.

(6) On the conclusion of the investigation the inspectors shall report their opinion to the Board of Trade, and a copy of the report shall be forwarded by the Board to the registered office of the company, and a further copy shall, at the request of the applicants for the investigation, be delivered to them.

The report shall be written or printed, as the Board direct.

(7) All expenses of and incidental to the investigation shall be defrayed by the applicants, unless the Board of Trade direct the same to be paid by the company, which the Board is hereby authorised to do.

110.—(1) A company may by special resolution appoint inspectors to investigate its affairs.

Power of  
company  
to appoint  
inspectors.  
[s. 60.]

(2) Inspectors so appointed shall have the same powers and duties as inspectors appointed by the Board of Trade, except that, instead of reporting to the Board, they shall report in such manner and to such persons as the company in general meeting may direct.

(3) Officers and agents of the company shall incur the like penalties in case of refusal to produce any book or document required to be produced to inspectors so appointed, or to answer any question, as they would have incurred if the inspectors had been appointed by the Board of Trade.

111.—A copy of the report of any inspectors appointed under this Act, authenticated by the seal of the company whose affairs they have investigated, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in the report.

Report of  
inspectors to  
be evidence.  
[s. 61.]

112.—(1) Every company shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

Appointment  
and remuneration of  
auditors.  
[1900, ss. 21,  
22; 1907,  
s. 19 (4).]

(2) If an appointment of auditors is not made at an annual general meeting, the Board of Trade may, on the application of any member of the company, appoint an auditor of the company for the current year, and fix the remuneration to be paid to him by the company for his services.

(3) A director or officer of the company shall not be capable of being appointed auditor of the company.

(4) A person, other than a retiring auditor, shall not be capable of being appointed auditor at an annual general meeting unless notice of an intention to nominate that person to the office of auditor has been given by a shareholder to the company not less than fourteen days before the annual general meeting, and the company shall send a copy of any such notice to the retiring auditor, and shall give notice thereof to the shareholders, either by advertisement or in any other mode allowed by the articles, not less than seven days before the annual general meeting:

Provided that if after notice of the intention to nominate an auditor has been so given an annual general meeting is called for a date fourteen days or less after the notice has been given, the notice, though not given within the time required by this

*Inspection  
and Audit.*

provision, shall be deemed to have been properly given for the purposes thereof, and the notice to be sent or given by the company may, instead of being sent or given within the time required by this provision, be sent or given at the same time as the notice of the annual general meeting.

(5) The first auditors of the company may be appointed by the directors before the statutory meeting, and if so appointed shall hold office until the first annual general meeting, unless previously removed by a resolution of the shareholders in general meeting, in which case the shareholders at that meeting may appoint auditors.

(6) The directors may fill any casual vacancy in the office of auditor, but while any such vacancy continues the surviving or continuing auditor or auditors, if any, may act.

(7) The remuneration of the auditors of a company shall be fixed by the company in general meeting, except that the remuneration of any auditors appointed before the statutory meeting, or to fill any casual vacancy, may be fixed by the directors.

*owers and  
luties of  
uditors.  
1879, ss. 7 (5),  
1; 1907, ss. 19,  
3 and Sch.  
II.]*

13.—(1) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors.

(2) The auditors shall make a report to the shareholders on the accounts examined by them, and on every balance sheet laid before the company in general meeting during their tenure of office, and the report shall state—

- (a) whether or not they have obtained all the information and explanations they have required; and
- (b) whether, in their opinion, the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them, and as shown by the books of the company.

(3) The balance sheet shall be signed on behalf of the board by two of the directors of the company or, if there is only one director, by that director, and the auditors' report shall be attached to the balance sheet, or there shall be inserted at the foot of the balance sheet a reference to the report, and the report shall be read before the company in general meeting, and shall be open to inspection by any shareholder.

Any shareholder shall be entitled to be furnished with a copy of the balance sheet and auditors' report at a charge not exceeding sixpence for every hundred words.

(4) If any copy of a balance sheet which has not been signed as required by this section is issued, circulated, or published, or if any copy of a balance sheet is issued, circulated, or published without either having a copy of the auditors' report attached thereto or containing such reference to that report as is required by this section, the company, and every director, manager, secretary, or other officer of the company who is knowingly a party to the default, shall on conviction be liable to a fine not exceeding fifty pounds.

(5) In the case of a banking company registered after the fifteenth day of August eighteen hundred and seventy-nine—

(a) if the company has branch banks beyond the limits of

*Inspection  
and Audit.*

Europe, it shall be sufficient if the auditor is allowed access to such copies of and extracts from the books and accounts of any such branch as have been transmitted to the head office of the company in the United Kingdom; and

- (b) the balance sheet must be signed by the secretary or manager (if any), and where there are more than three directors of the company by at least three of those directors, and where there are not more than three directors by all the directors.

[1879, s. 8.]

114.—(1) Holders of preference shares and debentures of a company shall have the same right to receive and inspect the balance sheets of the company and the reports of the auditors and other reports as is possessed by the holders of ordinary shares in the company.

*Rights of  
preference  
shareholders,  
&c., as to  
receipt and  
inspection of  
reports, &c.*  
[1907, s. 23.]

(2) This section shall not apply to a private company, nor to a company registered before the first day of July nineteen hundred and eight.

*Carrying on Business with less than the legal minimum of  
Members.*

115. If at any time the number of members of a company is reduced, in the case of a private company, below two, or in the case of any other company, below seven, and it carries on business for more than six months while the number is so reduced, every person who is a member of the company during the time that it so carries on business after those six months, and is cognisant of the fact that it is carrying on business with fewer than two members, or seven members, as the case may be, shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be sued for the same, without joinder in the action of any other member.

*Carrying on  
Business with  
less than the  
legal minimum  
of Members.*

*Prohibition  
of carrying  
on business  
with fewer  
than seven  
or, in the  
case of a  
private com-  
pany, two  
members.*  
[s. 48; 1907,  
s. 37 (4).]

*Service and Authentication of Documents.*

116. A document may be served on a company by leaving it at or sending it by post to the registered office of the company.

117. A document or proceeding requiring authentication, by a company may be signed by a director, secretary, or other authorised officer of the company, and need not be under its common seal.

*Service and  
Authentication  
of Documents*  
*Service of  
documents  
on company,*  
[s. 62.]  
*Authentica-  
tion of docu-  
ments.* [s. 64.]

*Tables and Forms.*

118.—(1) The forms in the Third Schedule to this Act or forms as near thereto as circumstances admit shall be used in all matters to which those forms refer.

(2) The Board of Trade may alter any of the tables and forms in the First Schedule to this Act, so that it does not increase the amount of fees payable to the registrar in the said schedule mentioned, and may alter or add to the forms in the said Third Schedule.

(3) Any such table or form, when altered, shall be published in the *London Gazette*, and thenceforth shall have the same force as if it were included in one of the Schedules to this Act, but no alteration made by the Board of Trade in Table A in the said First Schedule shall affect any company registered before the alteration, or repeal, as respects that company, any portion of that table.

*Tables and  
Forms.*  
*Application  
and altera-  
tion of tables  
and forms.*  
[s. 71.]

*Arbitrations*

Arbitration  
between  
companies  
and others.  
[ss. 72, 73.]  
22 & 23 Vict.  
c. 59.

*Arbitrations*

119.—(1) A company may by writing under its common seal agree to refer, and may refer to arbitration, in accordance with the Railway Companies Arbitration Act, 1859, any existing or future difference between itself and any other company or person.

(2) Companies parties to the arbitration may delegate to the arbitrator power to settle any terms or to determine any matter capable of being lawfully settled or determined by the companies themselves, or by their directors or other managing body.

(3) All the provisions of the Railway Companies Arbitration Act, 1859, shall apply to arbitrations between companies and persons in pursuance of this Act; and in the construction of those provisions "the companies" shall include companies under this Act.

*Power to compromise.*

Power to  
compromise  
with credi-  
tors and  
members.  
[1870, s. 2,  
1900, s. 24,  
1907, s. 38.]

*Power to compromise.*

120.—(1) Where a compromise or arrangement is proposed between a company and its creditors or any class of them, or between the company and its members or any class of them, the court may, on the application in a summary way of the company or of any creditor or member of the company or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be summoned in such manner as the court directs.

(2) If a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members, as the case may be, present either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the court, be binding on all the creditors or the class of creditors, or on the members or class of members, as the case may be, and also on the company or, in the case of a company in the course of being wound up, on the liquidator and contributories of the company.

(3) In this section the expression "company" means any company liable to be wound up under this Act.

*Meaning of  
"Private  
Company."*

Meaning of  
"private  
company."  
[1907, s. 37.]

*Meaning of "Private Company."*

121.—(1) For the purposes of this Act the expression "private company" means a company which by its articles—

- (a) restricts the right to transfer its shares; and
- (b) limits the number of its members (exclusive of persons who are in the employment of the company) to fifty; and,
- (c) prohibits any invitation to the public to subscribe for any shares or debentures of the company.

(2) A private company may, subject to anything contained in the memorandum or articles, by passing a special resolution and by filing with the registrar of companies such a statement in lieu of prospectus as the company, if a public company, would have had to file before allotting any of its shares or debentures, together with such a statutory declaration as the company, if a public company, would have had to file before commencing business, turn itself into a public company.

<sup>1</sup> See new Companies Act, 1913 (*post*).

(3) Where two or more persons hold one or more shares in a company jointly they shall, for the purposes of this section, be treated as a single member.

#### PART IV.

#### WINDING UP.

##### *Preliminary.*

- 122.—(1) The winding up of a company may be either—
- (i) by the court; or
  - (ii) voluntary; or
  - (iii) subject to the supervision of the court.
- (2) The provisions of this Act with respect to winding up apply, unless the contrary appears, to the winding up of a company in any of those modes.

##### *Preliminary.*

Modes of winding up.  
[1890, c. 63,  
s. 31 (2).]

##### *Contributories.*

123.—(1) In the event of a company being wound up, every present and past member shall, subject to the provisions of this section, be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities and the costs, charges, and expenses of the winding up, and for the adjustment of the rights of the contributories among themselves, with the qualifications following (that is to say):—

##### *Contributories*

Liability as contributories of present and past members.  
[s. 38.]

- (i) A past member shall not be liable to contribute if he has ceased to be a member for one year or upwards before the commencement of the winding up;
- (ii) A past member shall not be liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member;
- (iii) A past member shall not be liable to contribute unless it appears to the court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act;
- (iv) In the case of a company limited by shares no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member;
- (v) In the case of a company limited by guarantee, no contribution shall be required from any member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up;
- (vi) Nothing in this Act shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of the policy or contract;
- (vii) A sum due to any member of a company, in his character of a member, by way of dividends, profits, or otherwise, shall not be deemed to be a debt of the company, payable to that member in a case of competition between himself and any other creditor not a member of the company; but any such sum may be taken into account, for the purpose of the final adjustment of the rights of the contributories among themselves.

*Contributories.*

[1867, s. 5.]

(2) In the winding up of a limited company, any director or manager, whether past or present, whose liability is, in pursuance of this act, unlimited shall, in addition to his liability (if any) to contribute as an ordinary member, be liable to make a further contribution as if he were at the commencement of the winding up a member of an unlimited company: Provided that—

- (i) A past director or manager shall not be liable to make such further contribution if he has ceased to hold office for a year or upwards before the commencement of the winding up:
- (ii) A past director or manager shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office:
- (iii) Subject to the articles of the company, a director or manager shall not be liable to make such further contribution unless the court deems it necessary to require that contribution in order to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of the winding up.

[ss. 90, 134.]

(3) In the winding up of a company limited by guarantee which has a share capital, every member of the company shall be liable, in addition to the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up, to contribute to the extent of any sums unpaid on any shares held by him.

*Definition of contributory.*

s. 74.]

124.—The term “contributory” means every person liable to contribute to the assets of a company in the event of its being wound up, and in all proceedings for determining and in all proceedings prior to the final determination of the persons who are to be deemed contributories, includes any person alleged to be a contributory.

*Nature of liability of contributory.*

[ss. 75, 90, 134.]

125.—The liability of a contributory shall create a debt (in England and Ireland of the nature of a specialty) accruing due from him at the time when his liability commenced, but payable at the times when calls are made for enforcing the liability.

*Contributories in case of death of member.*

[ss. 76, 99, 105.]

126.—(1) If a contributory dies either before or after he has been placed on the list of contributories, his personal representatives and his heirs and devisees, shall be liable in a due course of administration to contribute to the assets of the company in discharge of his liability and shall be contributories accordingly.

(2) Where the personal representatives are placed on the list of contributories, the heirs or devisees need not be added, but, except in the case of heirs or devisees of any such real estate in England, they may be added as and when the court thinks fit.

(3) If the personal representatives make default in paying any money ordered to be paid by them, proceedings may be taken for administering the personal and real estates of the deceased contributory, or either of them, and of compelling payment thereof of the money due.

*Contributories in case of bankruptcy of member.*

[ss. 75, 77.]

127.—If a contributory becomes bankrupt, either before or after he has been placed on the list of contributories, then—

- (1) His trustee in bankruptcy shall represent him for all the purposes of the winding up, and shall be a contributory accordingly, and may be called on to admit to proof against the estate of the bankrupt, or otherwise to allow



to be paid out of his assets in due course of law, any money due from the bankrupt in respect of his liability to contribute to the assets of the company; and

- (2) There may be proved against the estate of the bankrupt the estimated value of his liability to future calls as well as calls already made.

128.—(1) The husband of a female contributory married before the date of the commencement of the Married Women's Property Act, 1882, or the Married Women's Property (Scotland) Act, 1881, as the case may be, shall, during the continuance of the marriage, be liable, as respects any liability attaching to any shares acquired by her before that date, to contribute to the assets of the company the same sum as she would have been liable to contribute if she had not married, and he shall be a contributory accordingly.

Provision as to married women.  
[s. 78.]  
43 & 46 Vict.  
c. 15.  
44 & 45 Vict.  
c. 21.

(2) Subject as aforesaid, nothing in this Act shall affect the provisions of the Married Women's Property Act, 1882, or the Married Women's Property (Scotland) Act, 1881.

#### *Winding up by Court.*

*Winding up by Court.*

129.—A company may be wound up by the court—

Circumstances in which company may be wound up by court.  
[s. 79;  
1900, s. 12 (8);  
1907, s. 37(4).]

- (i) If the company has by special resolution resolved that the company be wound up by the court;
- (ii) If default is made in filing the statutory report or in holding the statutory meeting;
- (iii) If the company does not commence its business within a year from its incorporation, or suspends its business for a whole year;
- (iv) If the number of members is reduced, in the case of a private company, below two, or, in the case of any other company, below seven;
- (v) If the company is unable to pay its debts;
- (vi) If the court is of opinion that it is just and equitable that the company should be wound up.

130.—A company shall be deemed to be unable to pay its debts—

Company when deemed unable to pay its debts.  
[s. 80; 1907, s. 28.]

- (i) If a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding fifty pounds then due, has served on the company, by leaving the same at its registered office, a demand under his hand requiring the company to pay the sum so due, and the company has for three weeks thereafter neglected to pay the sum, or to secure or compound for it to the reasonable satisfaction of the creditor; or
- (ii) If in England or Ireland, execution or other process issued on a judgment decree or order of any court in favour of a creditor of the company is returned unsatisfied in whole or in part; or
- (iii) If, in Scotland, the induciæ of a charge for payment on an extract decree, or an extract registered bond, or an extract registered protest have expired without payment being made; or
- (iv) If it is proved to the satisfaction of the court that the company is unable to pay its debts, and in determining whether a company is unable to pay its debts, the court shall take into account the contingent and prospective liabilities of the company.

*Winding up  
by Court.*

Jurisdiction  
to wind up  
companies in  
England.

[1890, c. 63.

s. 1;

50 & 51 Vict.

c. 43, s. 28.]

131.—(1) The courts having jurisdiction to wind up companies registered in England shall be the High Court, the chancery courts of the counties palatine of Lancaster and Durham, and the county courts.

(2) Where the amount of the share capital of a company paid up or credited as paid up exceeds ten thousand pounds, a petition to wind up the company shall be presented to the High Court, or, in the case of a company whose registered office is situate within the jurisdiction of either of the palatine courts aforesaid, either to the High Court or to the palatine court having jurisdiction.

(3) Where the amount of the share capital of a company paid up or credited as paid up does not exceed ten thousand pounds, and the registered office of the company is situated within the jurisdiction of a county court having jurisdiction under this Act, a petition to wind up the company shall be presented to that county court.

(4) Where a company is formed for working mines within the stannaries and is not shown to be actually working mines beyond the limits of the stannaries, or to be engaged in any other undertaking beyond those limits, or to have entered into a contract for such working or undertaking, a petition to wind up the company shall be presented to the court exercising the stannaries jurisdiction whatever may be the amount of the capital of the company and wherever the registered office of the company is situate.

(5) The Lord Chancellor may by order exclude a county court from having jurisdiction under this Act, and for the purposes of that jurisdiction may attach its district, or any part thereof, to the High Court or any other county court, and may revoke or vary any such order or any like order made under the Companies (Winding Up) Act, 1890.

53 & 54 Vict.  
c. 63.

In exercising his powers under this section the Lord Chancellor shall provide that a county court shall not have jurisdiction under this Act unless it has for the time being jurisdiction in bankruptcy.

Any order made under this provision shall not affect any jurisdiction or powers vested in any county court under or by virtue of the Stannaries Jurisdiction (Abolition) Act, 1896.

59 & 60 Vict.  
c. 45.

(6) Every court in England having jurisdiction under this Act to wind up a company shall for the purposes of that jurisdiction have all the powers of the High Court, and every prescribed officer of the court shall perform any duties which an officer of the High Court may discharge by order of the judge thereof or otherwise in relation to the winding up of a company.

(7) Nothing in this section shall invalidate a proceeding by reason of its being taken in a wrong court.

[1890, c. 63.  
s. 32 (3).]

(8) For the purposes of this section the expression "registered office" means the place which has longest been the registered office of the company during the six months immediately preceding the presentation of the petition for winding up.

Conduct of  
winding up  
business in  
High Court  
in England.  
[1890, c. 63.  
s. 2.]

36 & 37 Vict.  
c. 66.

132.—Subject to general rules and to orders of transfer made under the authority of the Supreme Court of Judicature Act, 1873, and the Acts amending it, the jurisdiction to wind up companies of the High Court in England under this Act shall, as the Lord Chancellor may from time to time by general order direct, be exercised, either generally or in specified classes of cases, either by such judge or judges of the Chancery Division

*Winding up  
by Court.*

of the High Court as the Lord Chancellor may assign to exercise that jurisdiction, or by the judge who, for the time being, exercises the bankruptcy jurisdiction of the High Court.

133.—(1) The winding up of a company by the court in England or any proceedings in the winding up may at any time and at any stage, and either with or without application from any of the parties thereto, be transferred from one court to another court, or may be retained in the court in which the proceedings were commenced, although it may not be the court in which they ought to have been commenced.

*Transfer of  
proceedings.  
[1890, c. 63,  
s. 3.]*

(2) The powers of transfer given by the foregoing provisions of this section may, subject to and in accordance with general rules, be exercised by the Lord Chancellor or by any judge of the High Court having jurisdiction under this Act, or, as regards any case within the jurisdiction of any other court, by the judge of that court.

(3) If any question arises in any winding up proceeding in a county court which all the parties to the proceeding, or which one of them and the judge of the court, desire to have determined in the first instance in the High Court, the judge shall state the facts in the form of a special case for the opinion of the High Court, and thereupon the special case and the proceedings, or such of them as may be required, shall be transmitted to the High Court for the purposes of the determination.

134.—The court having jurisdiction to wind up companies registered in Ireland shall be the High Court:

*Jurisdiction  
to wind up  
companies in  
Ireland.  
[s. 81.]*

Provided that where the High Court in Ireland makes an order for winding up a company it may, if it thinks fit, direct that all subsequent proceedings in the winding up be had in the court of bankruptcy having jurisdiction in the place in which the registered office of the company is situate; and thereupon those proceedings shall be taken in that court of bankruptcy accordingly, and that court shall, for the purposes of the winding up have all the powers of the High Court in Ireland.

135.—The court having jurisdiction to wind up companies registered in Scotland shall be the Court of Session in either division thereof, or, in the event of a remit to a permanent Lord Ordinary, that Lord Ordinary, during session, and in time of vacation the Lord Ordinary on the bills.

*Jurisdiction  
to wind up  
companies in  
Scotland.  
[s. 81;  
1886, s. 5.]*

136.—Where the court in Scotland makes a winding up order, it may, if it thinks fit, at any time direct all subsequent proceedings in the winding up to be taken before one of the permanent Lords Ordinary, and remit the winding up to him accordingly, and thereupon that Lord Ordinary shall, for the purposes of the winding up, have all the powers and jurisdiction of the court:

*Power in  
Scotland to  
remit wind  
ing up to  
Lord  
Ordinary.  
[1886, s. 6.]*

Provided that the Lord Ordinary may report to the division of the court any matter which may arise in the course of the winding up.

137.—(1) An application to the court for the winding up of a company shall be by petition, presented subject to the provisions of this section, either by the company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), contributory or contributories, or by all or any of those parties, together or separately: Provided that

*Provisions  
as to applica  
tions for  
winding up.  
[s. 82;  
1862, s. 40;  
1890, c. 63,  
s. 14;  
1900, s. 12 (8)  
1907, s. 28.]*

(a) A contributory shall not be entitled to present a petition for winding up a company unless—

(i) either the number of members is reduced, in the case of a private company, below two, or in the case of any other company, below seven; or

(ii) the shares in respect of which he is a contributory, or some of them, either were originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months before the commencement of the winding up, or have devolved on him through the death of a former holder; and

(b) A petition for winding up a company on the ground of default in filing the statutory report or in holding the statutory meeting shall not be presented by any person except a shareholder, or before the expiration of fourteen days after the last day on which the meeting ought to have been held; and

(c) The court shall not give a hearing to a petition for winding up a company by a contingent or prospective creditor until such security for costs has been given as the court thinks reasonable and until a *prima facie* case for winding up has been established to the satisfaction of the court.

(2) Where a company is being wound up voluntarily or subject to supervision in England, a petition may be presented by the official receiver attached to the court, as well as by any other person authorised in that behalf under the other provisions of this section, but the court shall not make a winding-up order on the petition unless it is satisfied that the voluntary winding up or winding up subject to supervision cannot be continued with due regard to the interests of the creditors or contributories.

(3) Where under the provisions of this Part of this Act any person as being the husband of a female contributory is himself a contributory, and a share has during the whole or any part of the six months been held by or registered in the name of the wife, or by or in the name of a trustee for the wife or for the husband, the share shall, for the purposes of this section, be deemed to have been held by and registered in the name of the husband.

138.—An order for winding up a company shall operate in favour of all the creditors and of all the contributories of the company as if made on the joint petition of a creditor and of a contributory.

139.—A winding up of a company by the court shall be deemed to commence at the time of the presentation of the petition for the winding up.

140.—At any time after the presentation of a petition for winding up, and before a winding-up order has been made, the company, or any creditor or contributory, may—

(a) where any action or proceeding against the company is pending in the High Court or Court of Appeal in England or Ireland, apply to the court in which the action or proceeding is pending for a stay of proceedings therein; and

(b) where any other action or proceeding is pending against the company, apply to the court having jurisdiction to wind up the company to restrain further proceedings in the action or proceeding; and the court to which application is so made may, as the

Effect of  
winding-up  
order.  
[s. 82.]

Commence-  
ment of  
winding up by  
court. [s. 84.]

Power to  
stay or re-  
strain pro-  
ceedings  
against  
company.  
[s. 85; 36 & 37  
Vict. c. 66.  
s. 24 (5);  
40 & 41 Vict.  
c. 57; s. 27  
(5).]

case may be, stay or restrain the proceedings accordingly on such terms as it thinks fit.

141.—(1) On hearing the petition the court may dismiss it with or without costs, or adjourn the hearing conditionally or unconditionally, or make any interim order, or any other order that it deems just, but the court shall not refuse to make a winding-up order on the ground only that the assets of the company have been mortgaged to an amount equal to or in excess of those assets or that the company has no assets.

(2) Where the petition is presented on the ground of default in filing the statutory report or in holding the statutory meeting, the court may order the costs to be paid by any persons who, in the opinion of the court, are responsible for the default.

142.—When a winding-up order has been made, no action or proceeding shall be proceeded with or commenced against the company except by leave of the court, and subject to such terms as the court may impose.

143.—On the making of a winding-up order, a copy of the order must forthwith be forwarded by the company to the registrar of companies, who shall make a minute thereof in his books relating to the company.

144.—The court may at any time after an order for winding up, on the application of any creditor or contributory, and on proof to the satisfaction of the court that all proceedings in relation to the winding up ought to be stayed, make an order staying the proceedings, either altogether or for a limited time, on such terms and conditions as the court thinks fit.

145.—The court may, as to all matters relating to a winding up, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence.

146.—(1) For the purposes of this Act so far as it relates to the winding up of companies by the court in England, the term "official receiver" shall mean the official receiver, if any, attached to the court for bankruptcy purposes, or if there is more than one such official receiver, then such one of them as the Board of Trade may appoint, or, if there is no such official receiver, then an officer appointed for the purpose by the Board of Trade.

(2) Any such officer shall for the purpose of his duties under this Act be styled the official receiver.

147.—(1) Where the court in England has made a winding-up order, there shall be made out and submitted to the official receiver a statement as to the affairs of the company in the prescribed form, verified by affidavit, and showing the particulars of its assets, debts, and liabilities, the names, residences, and occupations of its creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the official receiver may require.

(2) The statement shall be submitted and verified by one or more of the persons who are at the time of the winding-up order the directors and by the person who is at that time the secretary or other chief officer of the company, or by such of the persons being or having been directors or officers of the company or having taken part in the formation of the company at any time

*Winding up  
by Court.*

Powers of  
court on  
hearing  
petition.  
[s. 86;  
1900, s. 12 (8)  
1907, s. 29.]

Actions  
stayed on  
winding-up  
order.  
[s. 87.]  
Copy of  
order to be  
forwarded to  
registrar.  
[s. 88.]

Power of  
court to stay  
winding up.  
[s. 89.]

Court may  
have regard  
to wishes of  
creditors or  
contributories

Definition  
of official  
receiver.  
[1890, c. 63,  
s. 4 (2).]

Statement of  
company's  
affairs to be  
submitted to  
official  
receiver.  
[1890, c. 63,  
s. 7.]

*Official  
Receiver.*

within one year before the winding-up order, as the official receiver, subject to the direction of the court, may require to submit and verify the same.

(3) The statement shall be submitted within fourteen days from the date of the order, or within such extended time as the official receiver or the court may for special reasons appoint.

(4) Any person making or concurring in making the statement and affidavit required by this section shall be allowed, and shall be paid by the official receiver, out of the assets of the company, such costs and expenses incurred in and about the preparation and making of the statement and affidavit as the official receiver may consider reasonable, subject to an appeal to the court.

(5) If any person, without reasonable excuse, makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding ten pounds for every day during which the default continues.

(6) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled by himself or by his agent at all reasonable times, on payment of the prescribed fee, to inspect the statement submitted in pursuance of this section, and to a copy thereof or extract therefrom. But any person untruthfully so stating himself to be a creditor or contributory shall be guilty of a contempt of court and shall be punishable accordingly on the application of the liquidator or of the official receiver.

Report by  
official  
receiver.  
[1890, c. 63,  
s. 8 (1), (2).]

148.—(1) Where the court in England has made a winding-up order, the official receiver shall, as soon as practicable after receipt of the statement of the company's affairs, submit a preliminary report to the court—

- (a) as to the amount of capital issued, subscribed, and paid up, and the estimated amount of assets and liabilities; and
- (b) if the Company has failed, as to the causes of the failure; and
- (c) whether in his opinion further inquiry is desirable as to any matter relating to the promotion, formation, or failure of the company, or the conduct of the business thereof.

(2) The official receiver may also, if he thinks fit, make a further report, or further reports, stating the manner in which the company was formed and whether in his opinion any fraud has been committed by any person in its promotion or formation, or by any director or other officer of the company in relation to the company since the formation thereof, and any other matters which in his opinion it is desirable to bring to the notice of the court.

*Liquidator.*

Appoint-  
ment, re-  
muneration,  
and title of  
liquidators.

[ss. 85, 94.]  
[ss. 85, 92;  
see 1890, c. 63,  
s. 4 (1), (5).]

*Liquidators.*

149.—(1) For the purpose of conducting the proceedings in winding up a company and performing such duties in reference thereto as the court may impose, the court may appoint a liquidator or liquidators.

(2) The court may make such an appointment provisionally at any time after the presentation of a petition and before (where the proceedings are in England) the making of an order for winding up, or (where the proceedings are in Scotland or Ireland) the first appointment of liquidators.

*Liquidators.*

- (3) Where the proceedings are in England—
- (a) If a provisional liquidator is appointed before the making of a winding-up order, the official receiver or any other fit person may be appointed :
- (b) On a winding-up order being made the official receiver shall by virtue of his office become the provisional liquidator and shall continue to act as such until he or another person becomes liquidator and is capable of acting as such :
- (c) When a person other than the official receiver is appointed liquidator he shall not be capable of acting as liquidator until he has notified his appointment to the registrar of companies and given security in the prescribed manner to the satisfaction of the Board of Trade.
- (4) If more than one liquidator is appointed by the court, the court shall declare whether any act by this Act required or authorised to be done by the liquidator is to be done by all or any one or more of the persons appointed. [s. 92.]
- (5) In a winding up in Scotland or Ireland the court may determine whether any and what security is to be given by a liquidator on his appointment. [s. 92.]
- (6) A liquidator appointed by the court may resign or, on cause shown, be removed by the court. [s. 93.]
- (7) A vacancy in the office of a liquidator appointed by the court shall be filled by the court. [s. 93 ; 1890, c. 63, s. 4 (4) ]
- In a winding up in England the official receiver shall by virtue of his office be the liquidator during the vacancy.
- (8) Where a person other than the official receiver is appointed liquidator, he shall receive such salary or remuneration by way of percentage or otherwise as the court may direct ; and if more such persons than one are appointed liquidators their remuneration shall be distributed among them in such proportions as the court directs. [s. 91.]
- (9) A liquidator shall be described as follows (that is to say) :—
- (a) In a winding up in England, where a person other than the official receiver is liquidator, by the style of the liquidator, and where the official receiver is liquidator, by the style of the official receiver and liquidator, and
- (b) In a winding up in Scotland or Ireland, by the style of the official liquidator,
- of the particular company in respect of which he is appointed, and not by his individual name.
- (10) The acts of a liquidator shall be valid notwithstanding any defects that may afterwards be discovered in his appointment or qualification. [s. 92.]
- 150.—(1) In a winding up by the court the liquidator shall take into his custody, or under his control, all the property and things in action to which the company is or appears to be entitled. [s. 94 ; 1890, c. 63, s. 4 (3). Winding-up Rules of 1903, R. 59.]
- (2) In a winding up by the court in Scotland or Ireland, if and so long as there is no liquidator, all the property of the company shall be deemed to be in the custody of the court.
- 151.—(1) The liquidator in a winding up by the court shall have power, in the case of a winding up in England with the sanction either of the court or of the committee of inspection, and in the case of a winding up in Scotland or Ireland with the sanction of the court—
- Custody of company's property. [ss. 92, 94.]
- Powers of liquidator. [s. 95 ; 1890 c. 63, s. 12 (1).]

*Liquidators.*[1890, c. 63,  
s. 12 (4).]

[s. 97.]

s. 95; 1890,  
c. 63, s. 12  
(a).]

- (a) To bring or defend any action or other legal proceeding in the name and on behalf of the company:
  - (b) To carry on the business of the company, so far as may be necessary for the beneficial winding up thereof:
  - (c) In the case of a winding up in England, to employ a solicitor or other agent to take any proceedings or do any business which the liquidator is unable to take or do himself; but the sanction in this case must be obtained before the employment, except in cases of urgency, and in those cases it must be shown that no undue delay took place in obtaining the sanction:
  - (d) In the case of a winding up in Scotland or Ireland, to appoint a solicitor or law agent to assist him in the performance of his duties.
- (2) The liquidator in a winding up by the court shall have power, but (subject to the provisions of this section) in the case of a winding up in Scotland or Ireland only with the sanction of the court,—
- (a) To sell the real and personal property, and things in action of the company by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels:
  - (b) To do all acts and to execute, in the name and on behalf of the company, all deeds, receipts, and other documents, and for that purpose to use, when necessary, the company's seal:
  - (c) To prove, rank, and claim in the bankruptcy, insolvency, or sequestration of any contributory, for any balance against his estate, and to receive dividends in the bankruptcy, insolvency, or sequestration in respect of that balance, as a separate debt due from the bankrupt or insolvent, and rateably with the other separate creditors:
  - (d) To draw, accept, make, and indorse any bill of exchange or promissory note in the name and on behalf of the company, with the same effect with respect to the liability of the company as if the bill or note had been drawn, accepted, made, or indorsed by or on behalf of the company in the course of its business:
  - (e) To raise on the security of the assets of the company any money requisite:
  - (f) To take out, in his official name, letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the company; and in all such cases the money due shall, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, be deemed to be due to the liquidator himself:
  - (g) To do all such other things as may be necessary for winding up the affairs of the company and distributing its assets.
- (3) The exercise by the liquidator in a winding up by the court in England of the powers conferred by this section shall be subject to the control of the court, and any creditor or contributory may apply to the court with respect to any exercise or proposed exercise of any of those powers.

[1890, c. 63,  
s. 12 (3).]



*Liquidators.*

[s. 96.]

(4) In the case of a winding up in Scotland or Ireland the court may provide by any order that the liquidator may exercise any of the above powers, except the power to appoint a solicitor or law agent, without the sanction or intervention of the court.

(5) Where a liquidator is provisionally appointed by the court, the court may limit and restrict his powers by the order appointing him.

(6) In a winding up by the court in Scotland the liquidator shall, subject to rules made under this Act, have the same powers as a trustee on a bankrupt estate.

[s. 171.]

152.—(1) When a winding up order has been made by the court in England, the official receiver shall summon separate meetings of the creditors and contributories of the company for the purpose of—

Meetings of  
creditors and  
contribu-  
tories in  
English  
winding up.  
[1890, c. 63,  
s. 6.]

(a) determining whether or not an application is to be made to the court for appointing a liquidator in the place of the official receiver; and

(b) determining whether or not an application is to be made to the court for the appointment of a committee of inspection to act with the liquidator, and who are to be the members of the committee if appointed.

(2) The court may make any appointment and order required to give effect to any such determination, and if there is a difference between the determinations of the meetings of the creditors and contributories in respect of any of the matters mentioned in the foregoing provisions of this section, the court shall decide the difference and make such order thereon as the court may think fit.

(3) In case a liquidator is not appointed by the court the official receiver shall be the liquidator of the company.

153.—Where in the winding up of a company by the court in England a person other than the official receiver is appointed liquidator he shall give the official receiver such information and such access to and facilities for inspecting the books and documents of the company, and generally such aid as may be requisite for enabling that officer to perform his duties under this Act.

Liquidator  
to give in  
formation  
to official  
receiver.  
[1890, c. 63,  
s. 4 (3).]

154.—(1) Every liquidator of a company which is being wound up by the court in England shall, in such manner and at such times as the Board of Trade, with the concurrence of the Treasury, direct, pay the money received by him to the Companies Liquidation Account at the Bank of England, and the Board shall furnish him with a certificate of receipt of the money so paid :

Payments of  
liquidator  
in English  
winding up  
into Bank.  
[1890, c. 63,  
s. 11 (2) (4),  
(6).]

Provided that, if the committee of inspection satisfy the Board of Trade that for the purpose of carrying on the business of the company or of obtaining advances, or for any other reason, it is for the advantage of the creditors or contributories that the liquidator should have an account with any other bank, the Board shall, on the application of the committee of inspection, authorise the liquidator to make his payments into and out of such other bank as the committee may select, and thereupon those payments shall be made in the prescribed manner.

(2) If any such liquidator at any time retains for more than ten days a sum exceeding fifty pounds, or such other amount as the Board of Trade in any particular case authorises him to retain, then, unless he explains the retention to the satisfaction of the Board, he shall pay interest on the amount so retained in excess at the rate of twenty per cent. per annum, and shall

*Liquidators.*

be liable to disallowance of all or such part of his remuneration as the Board may think just, and to be removed from his office by the Board, and shall be liable to pay any expenses occasioned by reason of his default.

(3) A liquidator of a company which is being wound up by the court in England shall not pay any sums received by him as liquidator into his private banking account.

Audit of  
liquidator's  
accounts in  
English  
winding up.  
[1890, c. 63,  
s. 20.]

155.—(1) Every liquidator of a company which is being wound up by the court in England shall, at such times as may be prescribed but not less than twice in each year during his tenure of office, send to the Board of Trade, or as they direct, an account of his receipts and payments as liquidator.

(2) The account shall be in a prescribed form, shall be made in duplicate, and shall be verified by a statutory declaration in the prescribed form.

(3) The Board shall cause the account to be audited and for the purpose of the audit the liquidator shall furnish the Board with such vouchers and information at the Board may require, and the Board may at any time require the production of and inspect any books or accounts kept by the liquidator.

(4) When the account has been audited, one copy thereof shall be filed and kept by the Board, and the other copy shall be filed with the court, and each copy shall be open to the inspection of any creditor, or of any person interested.

(5) The Board shall cause the account when audited or a summary thereof to be printed, and shall send a printed copy of the account or summary by post to every creditor and contributory.

Books to be  
kept by  
liquidator in  
English  
winding up.  
[1890, c. 63,  
s. 21.]

156.—Every liquidator of a company which is being wound up by the court in England shall keep, in manner prescribed, proper books in which he shall cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor or contributory may, subject to the control of the court, personally or by his agent inspect any such books.

Release of  
liquidators  
in England.  
[1890, c. 63,  
s. 22.]

157.—(1) When the liquidator of a company which is being wound up by the court in England has realised all the property of the company, or so much thereof as can, in his opinion, be realised without needlessly protracting the liquidation, and has distributed a final dividend, if any, to the creditors, and adjusted the rights of the contributories among themselves, and made a final return, if any, to the contributories, or has resigned, or has been removed from his office, the Board of Trade shall, on his application, cause a report on his accounts to be prepared, and on his complying with all the requirements of the Board, shall take into consideration the report, and any objection which may be urged by any creditor, or contributory, or person interested against the release of the liquidator, and shall either grant or withhold the release accordingly, subject nevertheless to an appeal to the High Court.

(2) Where the release of a liquidator is withheld the court may, on the application of any creditor, or contributory, or person interested, make such order as it thinks just, charging the liquidator with the consequences of an act or default which he may have done or made contrary to his duty.

(3) An order of the Board of Trade releasing the liquidator shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of

the company, or otherwise in relation to his conduct as liquidator, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(4) When the liquidator has not previously resigned or been removed, his release shall operate as a removal of him from his office.

158.—(1) Subject to the provisions of this Act, the liquidator of a company which is being wound up by the court in England, shall, in the administration of the assets of the company and in the distribution thereof among its creditors, have regard to any directions that may be given by resolution of the creditors or contributories at any general meeting, or by the committee of inspection, and any directions given by the creditors or contributories at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection.

(2) The liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors or contributories, by resolution, either at the meeting appointing the liquidator or otherwise, may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or contributories as the case may be.

(3) The liquidator may apply to the court in manner prescribed for directions in relation to any particular matter arising under the winding up.

(4) Subject to the provisions of this Act, the liquidator shall use his own discretion in the management of the estate and its distribution amongst the creditors.

(5) If any person is aggrieved by any act or decision of the liquidator, that person may apply to the court, and the court may confirm, reverse, or modify the act or decision complained of, and make such order in the premises as it thinks just.

159.—(1) The Board of Trade shall take cognisance of the conduct of liquidators of companies which are being wound up by the court in England, and if a liquidator does not faithfully perform his duties and duly observe all the requirements imposed on him by statute, rules, or otherwise with respect to the performance of his duties, or if any complaint is made to the Board by any creditor or contributory in regard thereto, the Board shall inquire into the matter, and take such action thereon as they may think expedient.

(2) The Board may at any time require any liquidator of a company which is being wound up by the court in England to answer any inquiry in relation to any winding up in which he is engaged, and may, if the Board think fit, apply to the court to examine him or any other person on oath concerning the winding up.

(3) The Board may also direct a local investigation to be made of the books and vouchers of the liquidator.

*Committee of Inspection, Special Manager, Receiver.*

160.—(1) A committee of inspection appointed in pursuance of this Act shall consist of creditors and contributories of the company or persons holding general powers of attorney from creditors or contributories in such proportions as may be agreed on by the meetings of creditors and contributories, or as, in case of difference, may be determined by the court.

(2) The committee shall meet at such times as they from time

Exercise and control of liquidator's powers in England.  
[1890, c. 63, ss. 23, 24.]

Control of Board of Trade over liquidators in England.  
[1890, c. 63, s. 25.]

Committee of Inspection, Special Manager, Receiver.  
Committee of inspection in England winding up  
[1890, c. 63, s. 9.]

*Committee of  
Inspection,  
Special  
Manager,  
Receiver.*

to time appoint, and, failing such appointment, at least once a month; and the liquidator or any member of the committee may also call a meeting of the committee, as and when he thinks necessary.

(3) The committee may act by a majority of their members present at a meeting, but shall not act unless a majority of the committee are present.

(4) Any member of the committee may resign by notice in writing signed by him and delivered to the liquidator.

(5) If a member of the committee becomes bankrupt, or compounds or arranges with his creditors, or is absent from five consecutive meetings of the committee without the leave of those members who together with himself represent the creditors or contributories, as the case may be, his office shall thereupon become vacant.

(6) Any member of the committee may be removed by an ordinary resolution at a meeting of creditors (if he represents creditors), or of contributories (if he represents contributories) of which seven days' notice has been given, stating the object of the meeting.

(7) On a vacancy occurring in the committee the liquidator shall forthwith summon a meeting of creditors or of contributories, as the case may require, to fill the vacancy, and the meeting may, by resolution, re-appoint the same or appoint another creditor or contributory to fill the vacancy.

(8) The continuing members of the committee, if not less than two, may act notwithstanding any vacancy in the committee.

(9) If there is no committee of inspection, any act or thing or any direction or permission by this Act authorised or required to be done or given by the committee may be done or given by the Board of Trade on the application of the liquidator.

161.—(1) Where the official receiver becomes the liquidator of a company, whether provisionally or otherwise, he may, if satisfied that the nature of the estate or business of the company, or the interests of the creditors or contributories generally, require the appointment of a special manager of the estate or business of the company other than himself, apply to the court to, and the court may on such application, appoint a special manager thereof to act during such time as the court may direct, with such powers, including any of the powers of a receiver or manager, as may be entrusted to him by the court.

(2) The special manager shall give such security and account in such manner as the Board of Trade direct.

(3) The special manager shall receive such remuneration as may be fixed by the court.

162.—Where an application is made to the court to appoint a receiver on behalf of the debenture holders or other creditors of a company which is being wound up by the court in England the official receiver may be so appointed.

#### *Ordinary Powers of Court.*

163.—(1) As soon as may be after making a winding-up order, the court shall settle a list of contributories, with power to rectify the register of members in all cases where rectification is required in pursuance of this Act, and shall cause the assets of the company to be collected, and applied in discharge of its liabilities.

*Power in  
England to  
appoint  
special  
manager.  
[1890, c. 63,  
s. 5.]*

*Power in Eng-  
land to appoint  
official receiver  
as receiver for  
debenture  
holders or cred-  
itors. [1890, c.  
63, s. 4 (6).]*

#### *Ordinary Powers of Court.*

*Settlement  
of list of con-  
tributories  
and applica-  
tion of assets.  
[ss. 98, 99.]*

*Ordinary  
Powers  
of Court.*

(2) In settling the list of contributories, the court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or liable to the debts of others.

164.—The court may, at any time after making a winding-up order, require any contributory for the time being settled on the list of contributories, and any trustee, receiver, banker, agent, or officer of the company to pay, deliver, convey, surrender, or transfer forthwith, or within such time as the court directs, to the liquidator, any money, property, or books and papers in his hands to which the company is *prima facie* entitled.

Power to require delivery of property.  
[s. 100.]

165.—(1) The court may, at any time after making a winding-up order, make an order on any contributory for the time being settled on the list of contributories to pay, in manner directed by the order, any money due from him or from the estate of the person whom he represents to the company, exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Act.

Power to order payment of debts by contributory.  
[s. 101, 1867, s. 6.]

(2) The court in making such an order may, in the case of an unlimited company, allow to the contributory by way of set-off any money due to him or to the estate which he represents from the company on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit; and may, in the case of a limited company, make to any director or manager whose liability is unlimited or to his estate the like allowance.

(3) But in the case of any company, whether limited or unlimited, when all the creditors are paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

166.—(1) The court may, at any time after making a winding-up order, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on and order payment thereof by all or any of the contributories for the time being settled on the list of the contributories to the extent of their liability, for payment of any money which the court considers necessary to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of winding up, and for the adjustment of the rights of the contributories among themselves.

Power of court to make calls.  
[s. 102.]

(2) In making a call the court may take into consideration the probability that some of the contributories may partly or wholly fail to pay the call.

167.—(1) The court may order any contributory, purchaser or other person from whom money is due to the company to pay the same into the Bank of England, or any branch thereof to the account of the liquidator instead of to the liquidator, and any such order may be enforced in the same manner as if it had directed payment to the liquidator.

Power to order payment into bank.  
[ss. 103, 104.]

(2) All money and securities paid or delivered into the Bank of England or any branch thereof in the event of a winding up by the court shall be subject in all respects to the orders of the court.

168.—(1) An order made by the court on a contributory shall (subject to any right of appeal) be conclusive evidence that the money, if any, thereby appearing to be due or ordered to be paid is due.

Order on contributory conclusive evidence.  
[s. 106.]

*Ordinary Powers of Court.*

Power to exclude creditors not proving in time. [s. 107.]

Adjustment of rights of contributories. [s. 109.]

Power to order costs. [s. 110.]

Dissolution of company. [ss. 111, 112, 113.]

Delegation to liquidator of certain powers of court in England. [1890, c. 63, s. 13.]

*Extraordinary Powers of Court.*

Power to summon persons suspected of having property of company. [ss. 115, 117.]

(2) All other pertinent matters stated in the order shall be taken to be truly stated as against all persons, and in all proceedings, except proceedings against the real estate of a deceased contributory, in which case the order shall be only *prima facie* evidence for the purpose of charging his real estate, unless his heirs or devisees were on the list of contributories at the time of the order being made.

169.—The court may fix a time or times within which creditors are to prove their debts or claims, or to be excluded from the benefit of any distribution made before those debts are proved.

170.—The court shall adjust the rights of the contributories among themselves, and distribute any surplus among the persons entitled thereto.

171.—The court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the costs, charges, and expenses incurred in the winding up in such order of priority as the court thinks just.

172.—(1) When the affairs of a company have been completely wound up, the court shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.

(2) The order shall be reported by the liquidator to the registrar of companies who shall make in his books a minute of the dissolution of the company.

(3) If the liquidator makes default in complying with the requirements of this section he shall be liable to a fine not exceeding five pounds for every day during which he is in default.

173.—General rules may be made for enabling or requiring all or any of the powers and duties conferred and imposed on the court in England by this Act, in respect of the matters following, to be exercised or performed by the liquidator as an officer of the court, and subject to the control of the court; that is to say, the powers and duties of the court in respect of—

- (a) Holding and conducting meetings to ascertain the wishes of creditors and contributories;
- (b) Settling lists of contributories and rectifying the register of members where required, and collecting and applying the assets;
- (c) Requiring delivery of property or documents to the liquidator;
- (d) Making calls;
- (e) Fixing a time within which debts and claims must be proved;

Provided that the liquidator shall not, without the special leave of the court, rectify the register of members, and shall not make any call without either the special leave of the court or the sanction of the committee of inspection.

*Extraordinary Powers of Court.*

174.—(1) The court may, after it has made a winding-up order, summon before it any officer of the company or person known or suspected to have in his possession any property of the company or supposed to be indebted to the company, or any person whom the court deems capable of giving information concerning the trade, dealings, affairs, or property of the company.

(2) The court may examine him on oath concerning the same, either by word of mouth or on written interrogatories, and may reduce his answers to writing and require him to sign them.

(3) The court may require him to produce any books and papers in his custody or power relating to the company; but where he claims any lien on books or papers produced by him, the production shall be without prejudice to that lien, and the court shall have jurisdiction in the winding up to determine all questions relating to that lien.

(4) If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the court at the time appointed, not having a lawful impediment (made known to the court at the time of its sitting, and allowed by it), the court may cause him to be apprehended, and brought before the court for examination.

175.—(1) When an order has been made in England for winding up a company by the court, and the official receiver has made a further report under this Act stating that in his opinion a fraud has been committed by any person in the promotion or formation of the company, or by any director or other officer of the company in relation to the company since its formation, the court may, after consideration of the report, direct that any person who has taken any part in the promotion or formation of the company, or has been a director, or officer of the company, shall attend before the court on a day appointed by the court for that purpose, and be publicly examined as to the promotion or formation, or the conduct of the business of the company, or as to his conduct and dealings as director or officer thereof.

*Power in  
England to  
order public  
examination  
of promoters,  
directors, &c.  
[1890, c. 63,  
s. 8 (3)-(9).]*

(2) The official receiver shall take part in the examination, and for that purpose may, if specially authorised by the Board of Trade in that behalf, employ a solicitor with or without counsel.

(3) The liquidator, where the official receiver is not the liquidator, and any creditor or contributory, may also take part in the examination either personally or by solicitor or counsel.

(4) The court may put such questions to the person examined as the court thinks fit.

(5) The person examined shall be examined on oath, and shall answer all questions as the court may put or allow to be put to him.

(6) A person ordered to be examined under this section shall at his own cost, before his examination, be furnished with a copy of the official receiver's report, and may at his own cost employ a solicitor with or without counsel, who shall be at liberty to put to him such questions as the court may deem just for the purpose of enabling him to explain or qualify any answers given by him. Provided that if he is, in the opinion of the court, exculpated from any charges made or suggested against him, the court may allow him such costs as in its discretion it may think fit.

(7) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, and may thereafter be used in evidence against him, and shall be open to the inspection of any creditor or contributory at all reasonable times.

(8) The court may, if it thinks fit, adjourn the examination from time to time.

*Extraordinary  
Powers of  
Court.*

(9) An examination under this section may, if the court so directs, and subject to general rules, be held before any judge of county courts, or before any officer of the Supreme Court, being an official referee, master, or registrar in bankruptcy, or before any district registrar of the High Court named for the purpose by the Lord Chancellor, or in the case of companies being wound up by a palatine court, before a registrar of that court, and the powers of the court under this section as to the conduct of the examination, but not as to costs, may be exercised by the person before whom the examination is held.

Power to  
arrest ab-  
sconding  
contributory.  
[s. 118.]

176.—The court at any time either before or after making a winding-up order, on proof of probable cause for believing that a contributory is about to quit the United Kingdom, or otherwise to abscond or to remove or conceal any of his property for the purpose of evading payment of calls, or of avoiding examination respecting the affairs of the company, may cause the contributory to be arrested, and his books and papers and movable personal property to be seized, and him and them to be safely kept until such time as the court may order.

Powers of  
court cumu-  
lative.  
[s. 119.]

177.—Any powers by this Act conferred on the court shall be in addition to and not in restriction of any existing powers of instituting proceedings against any contributory or debtor of the company, or the estate of any contributory or debtor, for the recovery of any call or other sums.

*Enforcement  
of and Appeal  
from Orders.*

Power to en-  
force orders.  
[s. 120.]

*Enforcement of and Appeal from Orders.*

178.—(1) Orders made by the High Court in England or Ireland under this Act may be enforced in the same manner as orders made in any action pending therein.

(2) For the purposes of this part of this Act the court exercising the stannaries jurisdiction shall, in addition to its ordinary powers, have the same power of enforcing any orders made by it as the High Court in England has in relation to matters within its jurisdiction; and for the last-mentioned purposes, the jurisdiction of the judge of the court exercising the stannaries jurisdiction shall be deemed to be co-extensive in local limits with the jurisdiction of the High Court in England.

Order for  
calls on con-  
tributories in  
Scotland.  
[s. 121.]

179.—Where an order, interlocutor, or decree has been made in Scotland for winding up a company by the court, it shall be competent to the court, on production by the liquidators of a list certified by them of the names of the contributories liable in payment of any calls, and of the amount due by each contributory, and of the date when the same became due, to pronounce forthwith a decree against those contributories for payment of the sums so certified to be due, with interest from the said date till payment, at the rate of five per cent. per annum in the same way and to the same effect as if they had severally consented to registration for execution. On a charge of six days, of a legal obligation to pay those calls and interest, and the decree may be extracted immediately, and no suspension thereof shall be competent, except on caution or consignment, unless with special leave of the court.

*Enforcement  
of orders*

Kingdom.  
[ss. 122, 123.]

180.—(1) Any order made by the court in England for or in the course of winding up a company shall be enforced in Scotland and Ireland in the courts that would respectively have jurisdiction in respect of that company, if registered in Scotland or Ireland, and in the same manner in all respects as if the order had been made by those courts.



*Enforcement  
of and Appeal  
from Orders.*

(2) In like manner orders, interlocutors, and decrees made by the court in Scotland for or in the course of winding up a company shall be enforced in England and Ireland, and orders made by the court in Ireland for or in the course of winding up a company shall be enforced in England and Scotland, by the courts which would respectively have jurisdiction in respect of that company if registered in that part of the United Kingdom where the order is required to be enforced, and in the same manner in all respects as if the order had been made by those courts.

(3) Where any order, interlocutor, or decree made by one court is required to be enforced by another court, an office copy of the order, interlocutor, or decree shall be produced to the proper officer of the court required to enforce the same, and the production of an office copy shall be sufficient evidence of the order, interlocutor, or decree, and thereupon the last-mentioned court shall take the requisite steps in the matter for enforcing the order, interlocutor, or decree, in the same manner as if it had been made by that court.

181.—(1) Subject to rules of court, an appeal from any order or decision made or given in the winding up of a company by the court under this Act shall lie in the same manner and subject to the same conditions as an appeal from any order or decision of the court in cases within its ordinary jurisdiction.

*Appeals from  
order.  
[s. 124 ;  
1886, ss. 5, 6  
See R.S.C.  
LVIII. 9.]*

(2) Provided in regard to orders or judgments pronounced in Scotland by the Lord Ordinary on the Bills in vacation that—

(i) No order or judgment under the provisions of this Act specified in the First Part of the Fifth Schedule to this Act shall be subject to review, reduction, suspension, or stay of execution; and

(ii) Every other order or judgment (except as hereinafter mentioned) shall be subject to review only by reclaiming note, in common form, presented within fourteen days from the date of the order or judgment:

Provided that orders or judgments under the provisions of this Act specified in the Second Part of the Fifth Schedule to this Act shall, from the dates of those orders or judgments, and notwithstanding any reclaiming note against them, be carried out and receive effect until the reclaiming note is disposed of by the court.

(3) Provided also in regard to orders or judgments pronounced in Scotland by a permanent Lord Ordinary to whom a winding-up has been remitted, that any such order or judgment shall be subject to review only by reclaiming note in common form, presented within fourteen days from the date of the order or judgment, but should a reclaiming note not be presented and moved during session, the provisions of this section in regard to orders or judgments pronounced by the Lord Ordinary on the bills in vacation shall apply to the order or judgment.

(4) Nothing in this section shall affect the provisions of this Act in reference to decrees in Scotland for payment of calls in the winding up of companies, whether voluntarily or by or subject to the supervision of the court.

#### *Voluntary Winding Up.*

182. A company may be wound up voluntarily.—

(1) When the period (if any) fixed for the duration of the company by the articles expires, or the event (if any) occurs, on the occurrence of which the articles

*Voluntary  
Winding Up.  
Circumstances  
in which com-  
pany may be  
wound up  
voluntarily.  
[s. 129.]*

*Voluntary  
Winding up.*  
Delegation  
of authority  
to appoint  
liquidators.  
[s. 135.]

Arrange-  
ment when  
binding on  
creditors.  
ss. 136, 137.]

Power of  
liquidator to  
accept  
shares, &c.,  
as considera-  
tion for sale  
of property  
of company.  
[ss. 161, 162.]

190.—(1) A company about to be, or in course of being, wound up voluntarily may, by extraordinary resolution, delegate to its creditors, or to any committee of them, the power of appointing liquidators or any of them, and of supplying vacancies among the liquidators, or enter into any arrangement with respect to the powers to be exercised by the liquidators, and the manner in which they are to be exercised.

(2) Any act done by creditors in pursuance of any such delegated power shall have the same effect as if it had been done by the company.

191.—(1) Any arrangement entered into between a company about to be, or in the course of being, wound up voluntarily, and its creditors, shall, subject to any right of appeal under this section, be binding on the company if sanctioned by an extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors.

(2) Any creditor or contributory may, within three weeks from the completion of the arrangement, appeal to the court against it, and the court may thereupon, as it thinks just, amend, vary, or confirm the arrangement.

192.—(1) Where a company is proposed to be, or is in course of being, wound up altogether voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company (in this section called the transferee company), the liquidator of the first-mentioned company (in this section called the transferor company) may, with the sanction of a special resolution of that company, conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, receive in compensation or part compensation for the transfer or sale, shares, policies, or other like interests in the transferee company, for distribution among the members of the transferor company, or may enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies, or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the transferee company.

(2) Any sale or arrangement in pursuance of this section shall be binding on the members of the transferor company.

(3) If any member of the transferor company who did not vote in favour of the special resolution at either of the meetings held for passing and confirming the same, expresses his dissent therefrom in writing addressed to the liquidator, and left at the registered office of the company within seven days after the confirmation of the resolution, he may require the liquidator either to abstain from carrying the resolution into effect, or to purchase his interest at a price to be determined by agreement or by arbitration in manner provided by this section.

(4) If the liquidator elects to purchase the member's interest, the purchase money must be paid before the company is dissolved, and be raised by the liquidator in such manner as may be determined by special resolution.

(5) A special resolution shall not be invalid for the purposes of this section by reason that it is passed before or concurrently with a resolution for winding up the company, or for appointing liquidators; but if an order is made within a year from winding up the company by or subject to the supervision of the court the special resolution shall not be valid unless sanctioned by the court.

(6) For the purposes of an arbitration under this section the provisions of the Companies Clauses Consolidation Act, 1845, or, in the case of a winding up in Scotland, the Companies Clauses Consolidation (Scotland) Act, 1845, with respect to the settlement of disputes by arbitration, shall be incorporated with this Act; and in the construction of those provisions this Act shall be deemed to be the special Act, and "the company" shall mean the transferor company, and any appointment by the said incorporated provisions directed to be made under the hand of the secretary, or any two of the directors, may be made under the hand of the liquidator, or if there is more than one liquidator, then of any two or more of the liquidators.

193.—(1) Where a company is being wound up voluntarily the liquidator or any contributory or creditor may apply to the court to determine any question arising in the winding up, or to exercise, as respects the enforcing of calls, or any other matter, all or any of the powers which the court might exercise if the company were being wound up by the court.

(2) The court, if satisfied that the determination of the question or the required exercise of power will be just and beneficial, may accede wholly or partially to the application on such terms and conditions as the court thinks fit, or may make such other order on the application as the court thinks just.

194.—(1) Where a company is being wound up voluntarily, the liquidator may summon general meetings of the company for the purpose of obtaining the sanction of the company by special or extraordinary resolution, or for any other purposes he may think fit.

(2) In the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding up, and of each succeeding year, or as soon thereafter as may be convenient, and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding up during the preceding year.

195.—(1) In the case of every voluntary winding up, as soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding up, showing how the winding up has been conducted and the property of the company has been disposed of; and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving any explanation thereof.

(2) The meeting shall be called by advertisement in the Gazette, specifying the time, place, and object thereof, and published one month at least before the meeting.

(3) Within one week after the meeting, the liquidator shall make a return to the registrar of companies of the holding of the meeting, and of its date, and in default of so doing shall be liable to a fine not exceeding five pounds for every day during which the default continues.

(4) The registrar, on receiving the return shall forthwith register it, and on the expiration of three months from the registration of the return the company shall be deemed to be dissolved:

Provided that the court may, on the application of the liquidator or of any other person who appears to the court to be interested, make an order deferring the date at which the

*Voluntary  
Winding up.*  
8 & 9 Vict.  
c. 16.  
8 & 9 Vict.  
c. 17.

Power to  
apply to  
court.  
[s. 138;  
1900, s. 25.]

Power of  
liquidator to  
call general  
meeting.  
[s. 139.]

Final meet-  
ing and  
dissolution.  
[ss. 142, 143;  
1907, ss. 31 (1),  
(3), 50, and  
Sched. III.]

*Voluntary  
Winding up.*

dissolution of the company is to take effect for such time as the court thinks fit.

(5) It shall be the duty of the person of whose application an order of the court under this section is made, within seven days after the making of the order, to file with the registrar an office copy of the order, and if that person fails so to do he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

Costs of  
voluntary  
liquidation.  
[s. 144.]

196. All costs, charges, and expenses properly incurred in the voluntary winding up of a company, including the remuneration of the liquidator, shall be payable out of the assets of the company in priority to all other claims.

Saving for  
rights of  
creditors and  
contribu-  
tories.  
[s. 145.]

197. The voluntary winding up of a company shall not bar the right of any creditor or contributory to have it wound up by the court, if the court is of opinion, in the case of an application by a creditor, that the rights of the creditor or, in the case of an application by a contributory, that the rights of the contributories will be prejudiced by a voluntary winding up.

Power of court  
to adopt pro-  
ceedings of  
voluntary  
winding up.  
[s. 146.]

198. Where a company is being wound up voluntarily, and an order is made for winding up by the court, the court may if it thinks fit by the same or any subsequent order provide for the adoption of all or any of the proceedings in the voluntary winding up.

*Winding up  
subject to  
Supervision  
of Court.*

*Winding Up subject to Supervision of Court.*

Power to  
order wind-  
ing up sub-  
ject to super-  
vision.  
[s. 147.]

199. When a company has by special or extraordinary resolution resolved to wind up voluntarily, the court may make an order that the voluntary winding up shall continue but subject to such supervision of the court, and with such liberty for creditors, contributories, or others to apply to the court, and generally on such terms and conditions as the court thinks just.

Effect of  
petition for  
winding up sub-  
ject to super-  
vision. [s. 148.]

200. A petition for the continuance of a voluntary winding up subject to the supervision of the court shall, for the purpose of giving jurisdiction to the court over actions, be deemed to be a petition for winding up by the court.

Court may  
have regard  
to wishes of  
creditors and  
contribu-  
tories. . .  
[s. 149.]

201. The court may, in deciding between a winding up by the court and a winding up subject to supervision, in the appointment of liquidators, and in all other matters relating to the winding up subject to supervision, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence.

Power for  
court to ap-  
point or re-  
move liqui-  
dators.  
[s. 150.]

202.—(1) Where an order is made for a winding up subject to supervision, the court may by the same or any subsequent order appoint any additional liquidator.

(2) A liquidator appointed by the court under this section shall have the same powers, be subject to the same obligations, and in all respects stand in the same position as if he had been appointed by the company.

(3) The court may remove any liquidator so appointed by the court or any liquidator continued under the supervision order and fill any vacancy occasioned by the removal, or by death or resignation.

Effect of  
supervision  
order.  
[s. 151 ;  
1886, s. 6.]

203.—(1) Where an order is made for a winding up subject to supervision, the liquidator may, subject to any restrictions imposed by the court, exercise all his powers, without the sanction or intervention of the court, in the same manner as if the company were being wound up altogether voluntarily.

*Winding up  
subject to  
Supervision  
of Court.*

(2) A winding up subject to the supervision of the court is not a winding up by the court for the purpose of the following provisions of this Act, namely, those contained in sections one hundred and forty-seven, one hundred and forty-eight, one hundred and forty-nine except subsection (10), one hundred and fifty-two, one hundred and fifty-three, one hundred and fifty-four, one hundred and fifty-five, one hundred and fifty-six, one hundred and fifty-seven, one hundred and fifty-eight, one hundred and fifty-nine, one hundred and sixty, one hundred and sixty-one, one hundred and sixty-two, one hundred and seventy-three, and one hundred and seventy-five, but, subject as aforesaid, an order for a winding up subject to supervision shall for all purposes, including the staying of actions and other proceedings, the making and enforcement of calls, the power in Scotland to remit the winding up to a permanent Lord Ordinary, and the exercise of all other powers, be deemed to be an order for winding up by the court.

204. Where an order has been made in Scotland or Ireland for winding up a company subject to supervision, and an order is afterwards made for winding up by the court, the court may by the last-mentioned or by any subsequent order appoint any person who is then liquidator, either provisionally or permanently, and either with or without any other person, to be liquidator in the winding up by the court.

#### *Supplemental Provisions.*

205.—(1) In the case of voluntary winding up, every transfer of shares, except transfers made to or with the sanction of the liquidator, and every alteration in the status of the members of the company, made after the commencement of the winding up, shall be void.

(2) In the case of a winding up by or subject to the supervision of the court, every disposition of the property (including things in action) of the company, and every transfer of shares, or alteration in the status of its members, made after the commencement of the winding up, shall, unless the court otherwise orders, be void.

206. In every winding up (subject in the case of insolvent companies to the application in accordance with the provisions of this Act of the law of bankruptcy) all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency or sound only in damages, or for some other reason do not bear a certain value.

207. In the winding up of an insolvent company registered in England or Ireland the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and to debts provable and to the valuation of annuities and future and contingent liabilities as are in force for the time being under the law of bankruptcy in England or Ireland, as the case may be, with respect to the estates of persons adjudged bankrupt; and all persons who in any such case would be entitled to prove for and receive dividends out of the assets of the company may come in under the winding up, and make such claims against the company as they respectively are entitled to by virtue of this section.

*Appointment  
of voluntary  
liquidator as  
liquidator in  
winding up  
by court in  
Scotland or  
Ireland.  
s. 152.]*

#### *Supplemental Provisions.*

*Avoidance of  
transfers, &c.,  
after com-  
mencement  
of winding  
up.  
[ss. 131, 153.]*

*Debts of all  
descriptions  
to be proved.  
[s. 158.]*

*Application  
of bank-  
ruptcy rules  
in winding  
up of insol-  
vent English  
and Irish  
company  
[38 & 39 Vict.  
c. 77, s. 10;  
40 & 41 Vict.  
c. 57, s. 28 (1).]*

*Supplemental Provisions.*

Ranking of claims in Scotland.  
[1886, s. 4.]  
19 & 20 Vict.  
c. 79.

Preferential payments.  
[51 & 52 Vict.  
c. 62, s. 1;  
52 & 53 Vict.  
c. 60, s. 4;  
60 & 61 Vict.  
c. 19, ss. 2, 4;  
6 Edw. 7. c. 58  
s. 5; 1907,  
s. 30.]

6 Edw. 7.  
c. 58.

208. In the winding up of a company registered in Scotland, the general and special rules in regard to voting and ranking for payment of dividends provided by sections forty-nine to sixty-six of the Bankruptcy (Scotland) Act, 1856, or any other rules in regard thereto which may be in force for the time being in the sequestration of the estates of bankrupts in Scotland, shall, so far as is consistent with this Act, apply to creditors of the company voting in matters relating to the winding up, and ranking for payment of dividends; and for this purpose sequestration shall be taken to mean winding up, trustee to mean liquidator, and sheriff to mean the court.

209.—(1) In a winding up there shall be paid in priority to all other debts—

- (a) All parochial or other local rates due from the company at the date hereinafter mentioned, and having become due and payable within twelve months next before that date, and all assessed taxes, land tax, property or income tax assessed on the company up to the fifth day of April next before that date, and not exceeding in the whole one year's assessment;
- (b) All wages or salary of any clerk or servant in respect of services rendered to the company during four months before the said date, not exceeding fifty pounds; and
- (c) All wages of any workman or labourer not exceeding twenty-five pounds, whether payable for time or for piece work, in respect of services rendered to the company during two months before the said date: Provided that where any labourer in husbandry has entered into a contract for the payment of a portion of his wages in a lump sum at the end of the year of hiring, he shall have priority in respect of the whole of such sum, or a part thereof, as the court may decide to be due under the contract, proportionate to the time of service up to the said date; and
- (d) Unless the company is being wound up voluntarily merely for the purpose of reconstruction or of amalgamation with another company, all amounts (not exceeding in any individual case one hundred pounds) due in respect of compensation under the Workmen's Compensation Act, 1906, the liability whereof accrued before the said date, subject nevertheless to the provisions of section five of that Act.

(2) The foregoing debts shall—

- (a) Rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions; and
- (b) In the case of a company registered in England or Ireland, so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

(3) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them.

(4) In the event of a landlord or other person distraining or having distrained on any goods or effects of the company within three months next before the date of a winding-up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on; or the proceeds of the sale thereof:

Provided, that in respect of any money paid under any such charge the landlord or other person shall have the same rights or priority as the person to whom the payment is made.

(5) The date hereinafter in this section referred to is—

[1907, s. 30.]

(a) In the case of a company ordered to be wound up compulsorily which had not previously commenced to be wound up voluntarily, the date of the winding-up order; and

(b) In any other case, the date of the commencement of the winding up.

210.—(1) Any conveyance, mortgage, delivery of goods, payment, execution, or other act relating to property which would if made or done by or against an individual, be deemed in his bankruptcy a fraudulent preference, shall, if made or done by or against a company, be deemed, in the event of its being wound up, a fraudulent preference of its creditors, and be invalid accordingly.

Fraudulent  
preference.  
[s. 164.]

(2) For the purposes of this section the presentation of a petition for winding up in the case of a winding up by or subject to the supervision of the court, and a resolution for winding up in the case of a voluntary winding up, shall be deemed to correspond with the act of bankruptcy in the case of an individual.

(3) Any conveyance or assignment by a company of all its property to trustees for the benefit of all its creditors shall be void to all intents.

211. Where any company (being a company registered in England or Ireland) is being wound up by or subject to the supervision of the court, any attachment, sequestration, distress, or execution put in force against the estate or effects of the company after the commencement of the winding up shall be void to all intents.

Avoidance of  
certain attach-  
ments, execu-  
tions, &c., in  
case of com-  
pany registered  
in England or  
Ireland. [s. 163.]

212. Where a company is being wound up, a floating charge on the undertaking or property of the company created within three months of the commencement of the winding up shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid, except to the amount of any cash paid to the company at the time of or subsequently to the creation of, and in consideration for, the charge, together with interest on that amount at the rate of five per cent. per annum.

Effect of  
floating  
charge.  
[1907, s. 13.]

213. In the winding up, by or subject to the supervision of the court, of a company registered in Scotland, the following provisions shall have effect—

(1) The winding up shall, in the case of a winding up by the court as at its commencement, and in the case of a winding up subject to supervision as at the date of the presentation of the petition on which the supervision order is pronounced, be equivalent to an arrestment in execution and decree of forthcoming, and to an executed or completed poinding; and no arrestment or poinding of the funds or effects of the company, executed on or after the sixtieth day prior to the commencement of the

Effect in  
case of com-  
pany regis-  
tered in  
Scotland of  
diligence  
within 60  
days of  
winding up  
by or subject  
to super-  
vision of  
court.  
[1886, s. 3.]

*Supplement—  
Provisions.*

winding up by the court, or to the presentation of the petition on which a supervision order is made, as the case may be, shall be effectual; and those funds or effects, or the proceeds of those effects, if sold, shall be made forthcoming to the liquidator: Provided that any arrester or poinder before the date of the winding up, or of the petition, as the case may be, who is thus deprived of the benefit of his diligence, shall have preference out of those funds or effects for the expense bona fide incurred by him in such diligence:

- (2) The winding up shall, as at the respective dates aforesaid, be equivalent to a decree of adjudication of the heritable estates of the company for payment of the whole debts of the company, principal and interest, accumulated at the said dates respectively, subject to such preferable heritable rights and securities as existed at the said dates and are valid and unchallengeable, and the right to poind the ground hereinafter provided:

19 & 20 Vict.  
c. 79.

- (3) The provisions of sections one hundred and twelve to one hundred and seventeen, and of section one hundred and twenty, of the Bankruptcy (Scotland) Act, 1856, shall, so far as is consistent with this Act, apply to the realisation of heritable estates affected by such heritable rights and securities as aforesaid; and for the purposes of this Act the words "sequestration" and "trustee" occurring in those sections shall mean respectively "winding up" and "liquidator"; and the expression "the Lord Ordinary or the court" shall mean "the court" as defined by this Act with respect to Scotland:

- (4) No poinding of the ground which has not been carried into execution by sale of the effects sixty days before the respective dates aforesaid shall, except to the extent hereinafter provided, be available in any question with the liquidator: Provided that no creditor who holds a security over the heritable estate preferable to the right of the liquidator shall be prevented from executing a poinding of the ground after the respective dates aforesaid but that poinding shall in competition with the liquidator be available only for the interest on the debt for the current half-yearly term, and for the arrears of interest for one year immediately before the commencement of that term.

General  
scheme of  
liquidation  
may be  
sanctioned.  
[ss. 159, 160;  
1890, c. 63,  
s. 12 (1), (3).]

214.—(1) The liquidator may, with the sanction following (that is to say)—

- (a) in the case of a winding up by the court in England with the sanction either of the court or of the committee of inspection;
- (b) in the case of a winding up by the court in Scotland or Ireland, and in the case of any winding up subject to supervision, with the sanction of the court; and
- (c) in the case of a voluntary winding up, with the sanction of an extraordinary resolution of the company,
- do the following things or any of them:—

- (i) Pay any classes of creditors in full;
- (ii) Make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, ascertained or sounding only in damages



against the company, or whereby the company may be rendered liable;

- (iii) Compromise all calls and liabilities to calls, debts, and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, ascertained or sounding only, in damages, subsisting or supposed to subsist between the company and a contributory, or alleged contributory, or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or the winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.

(2) In the case of a winding up by the court in England the exercise by the liquidator of the powers of this section shall be subject to the control of the court, any creditor or contributory may apply to the court with respect to any exercise or proposed exercise of any of those powers.

215.—(1) Where in the course of winding up a company it appears that any person who has taken part in the formation or promotion of the company, or any past or present director, manager, or liquidator, or any officer of the company, has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the court may, on the application of the official receiver, or of the liquidator, or of any creditor or contributory, examine into the conduct of the promoter, director, manager, liquidator, or officer, and compel him to repay or restore the money or property or any part thereof respectively with interest at such rate as the court thinks just, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance, or breach of trust as the court thinks just.

(2) This section shall apply notwithstanding that the offence is one for which the offender may be criminally responsible.

(3) Where in the case of a winding up in England an order for payment of money is made under this section, the order shall be deemed to be a final judgment within the meaning of paragraph (g) of subsection (1) of section four of the Bankruptcy Act, 1883.

(4) So much of this section as refers to promoters, and to property of a company other than money, shall not apply to a winding up in Scotland or Ireland.

216.—If any director, officer, or contributory of any company being wound up destroys, mutilates, alters, or falsifies any books, papers, or securities, or makes or is privy to the making of any false or fraudulent entry in any register, book of account, or document belonging to the company with intent to defraud or deceive any person, he shall be guilty of a misdemeanour, and be liable to imprisonment for any term not exceeding two years, with or without hard labour.

217.—(1) If it appears to the court in the course of a winding up by or subject to the supervision of the court that any past or present director, manager, officer, or member of the company has been guilty of any offence in relation to the company for which he is criminally responsible, the court may on the

[1890, c. 63,  
s. 12 (3).]

Power of  
court to as-  
sess damages  
against de-  
linquent  
directors, &c.  
[s. 165;  
1890, c. 63,  
s. 10; 1893,  
s. 1.]

46 & 47 Vict.  
c. 52.

Penalty for  
falsification  
of books.  
[s. 166.]

Prosecution  
of delinquent  
directors, &c.  
[ss. 167, 168.]

**Supplemental Provisions.**

application of any person interested in the winding up, or of its own motion, direct the liquidator to prosecute for the offence, and may order the costs and expenses to be paid out of the assets of the company.

(2) If it appears to the liquidator in the course of a voluntary winding up that any past or present director, manager, officer, or member of the company has been guilty of any offence in relation to the company for which he is criminally responsible, the liquidator, with the previous sanction of the court, may prosecute the offender, and all expenses properly incurred by him in the prosecution shall be payable out of the assets of the company in priority to all other liabilities.

Penalty on perjury.  
[s. 169.]

218. If any person, on examination on oath authorised under this Act, or in any affidavit or deposition in or about the winding up of any company or otherwise in or about any matter arising under this Act, wilfully and corruptly gives false evidence, he shall be liable to the penalties for wilful perjury.

Meetings to ascertain wishes of creditors or contributories.  
[ss. 91, 149.]

219.—(1) Where by this Act the court is authorised, in relation to winding up, to have regard to the wishes of creditors or contributories, as proved to it by any sufficient evidence, the court may, if it thinks fit, for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held, and conducted in such manner as the court directs, and may appoint a person to act as chairman of any such meeting and to report the result thereof to the court.

(2) In the case of creditors, regard shall be had to the value of each creditor's debt.

(3) In the case of contributories, regard shall be had to the number of votes conferred on each contributory by the articles.

Books of company to be evidence.  
[s. 154.]

220. Where any company is being wound up, all books and papers of the company and of the liquidators shall, as between the contributories of the company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

Inspection of books.  
[s. 156.]

221. After an order for a winding up by or subject to the supervision of the court, the court may make such order for inspection by creditors and contributories of the company of its books and papers as the court thinks just, and any books and papers in the possession of the company may be inspected by creditors or contributories accordingly, but not further or otherwise.

Disposal of books and papers of company.  
[s. 155.]

222.—(1) When a company has been wound up and is about to be dissolved, the books and papers of the company and of the liquidators may be disposed of as follows (that is to say) :—

(a) In the case of a winding up by or subject to the supervision of the court in such way as the court directs ;

(b) In the case of a voluntary winding up in such way as the company by extraordinary resolution directs.

(2) After five years from the dissolution of the company no responsibility shall rest on the company, or the liquidators, or any person to whom the custody of the books and papers has been committed, by reason of the same not being forthcoming to any person claiming to be interested therein.

Power of court to declare dissolution of company void.  
[1907, s. 31.]

223.—(1) Where a company has been dissolved, the court may at any time within two years of the date of the dissolution, on an application being made for the purpose by the liquidator of the company or by any other person who appears to the court to be interested, make an order, upon such terms as the court thinks fit, declaring the dissolution to have been void, and

thereupon such proceedings may be taken as might have been taken if the company had not been dissolved.

(2) It shall be the duty of the person on whose application the order was made, within seven days after the making of the order, to file with the registrar of companies an office copy of the order, and if that person fails so to do he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

224.—(1) Where a company is being wound up in England, if the winding up is not concluded within one year after its commencement, the liquidator shall, at such intervals as may be prescribed, until the winding up is concluded, send to the registrar of companies a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation.

Information  
as to pending  
liquidations  
in England.  
[1890, c. 63,  
15.]

(2) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself, or by his agent, at all reasonable times, on payment of the prescribed fee, to inspect the statement, and to receive a copy thereof or extract therefrom; but any person untruthfully so stating himself to be a creditor or contributory shall be guilty of a contempt of court, and shall be punishable accordingly on the application of the liquidator or of the official receiver.

(3) If a liquidator fails to comply with the requirements of this section he shall be liable to a fine not exceeding fifty pounds for each day during which the default continues.

(4) If it appears from any such statement or otherwise that a liquidator has in his hands or under his control any money representing unclaimed or undistributed assets of the company which have remained unclaimed or undistributed for six months after the date of their receipt, the liquidator shall forthwith pay the same to the Companies Liquidation Account at the Bank of England, and shall be entitled to the prescribed certificate of receipt for the money so paid, and that certificate shall be an effectual discharge to him in respect thereof.

(5) For the purpose of ascertaining and getting in any money payable into the Bank of England in pursuance of this section, the like powers may be exercised, and by the like authority, as are exerciseable under section one hundred and sixty-two of the Bankruptcy Act, 1883, for the purpose of ascertaining and getting in the sums, funds, and dividends referred to in that section.

46 & 47 Vict  
c. 52.

(6) Any person claiming to be entitled to any money paid into the Bank of England in pursuance of this section may apply to the Board of Trade for payment of the same, and the Board may, on a certificate by the liquidator that the person claiming is entitled, make an order for the payment to that person of the sum due.

(7) Any person dissatisfied with the decision of the Board of Trade in respect of any claim made in pursuance of this section may appeal to the High Court.

225. In all proceedings under this Part of this Act, all courts, judges, and persons judicially acting, and all officers, judicial or ministerial, of any court, or employed in enforcing the process of any court, shall take judicial notice of the signature of any officer of the High Court in England or Ireland, or of the Court of Session in Scotland, or of the registrar of the court exercising the stannaries jurisdiction, and also of the official seal or stamp

Judicial  
notice of  
signature  
of officers.  
[1875.]

of the several offices of the High Court in England or Ireland, Court of Session, or court exercising the stannaries jurisdiction, appended to or impressed on any document made, issued, or signed under the provisions of this Part of this Act, or any official copy thereof.

Special com-  
mission for  
receiving  
evidence.  
[s. 126.]

226.—(1) The judges of the county courts in England who sit at places more than twenty miles from the General Post Office, and the judge exercising the bankruptcy jurisdiction of the High Court in Ireland and the assistant barristers and recorders in Ireland, and the sheriffs of counties in Scotland, shall be commissioners for the purpose of taking evidence under this Act, where a company is wound up in any part of the United Kingdom, and the court may refer the whole or any part of the examination of any witnesses under this Act to any person hereby appointed commissioner, although he is out of the jurisdiction of the court that made the winding-up order.

(2) Every commissioner shall, in addition to any powers which he might lawfully exercise as a judge of a county court, judge of the High Court, assistant barrister, or recorder, or sheriff, have in the matter so referred to him all the same powers of summoning and examining witnesses, of requiring the production or delivery of documents, of punishing defaults by witnesses, and of allowing costs and expenses to witnesses, as the court which made the winding-up order.

(3) The examination so taken shall be returned or reported to the court which made the order in such manner as that court directs.

Court may  
order exami-  
nation of  
persons in  
Scotland.  
[s. 127.]

227.—(1) The court may direct the examination in Scotland of any person for the time being in Scotland, whether a contributory of the company or not, in regard to the trade, dealings, affairs, or property of any company in course of being wound up, or of any person being a contributory of the company, so far as the company may be interested therein by reason of his being a contributory; and the order or commission to take the examination shall be directed to the sheriff of the county in which the person to be examined is residing or happens to be for the time; and the sheriff shall summon that person to appear before him at a time and place to be specified in the summons for examination on oath as a witness or as a haver, and to produce any books or papers called for which are in his possession or power.

(2) The sheriff may take the examination either orally or on written interrogatories, and shall report the same in writing in the usual form to the court; and shall transmit with the report the books and papers produced, if the originals thereof are required and specified by the order or commission, or otherwise copies thereof or extracts therefrom authenticated by the sheriff.

(3) If any person so summoned fails to appear at the time and place specified; or refuses to be examined; or to make the production required, the sheriff shall proceed against him as a witness or haver duly cited and failing to appear or refusing to give evidence or make production may be proceeded against by the law of Scotland.

(4) The sheriff shall be entitled to such and the like fees, and the witness shall be entitled to such and the like allowances, as sheriffs when acting as commissioners under appointment from the Court of Session and as witnesses and havers are entitled to in the like cases according to the law and practice of Scotland.

*Amendment  
provisions.*

(5) If any objection is stated to the sheriff by the witness, either on the ground of his incompetency as a witness, or as to the production required, or on any other ground, the sheriff may, if he thinks fit, report the objection to the court, and suspend the examination of the witness until it has been disposed of by the court.

228.—(1) Any affidavit required to be sworn under the provisions or for the purposes of this Part of the Act may be sworn in Great Britain, or Ireland, or elsewhere within the dominions of His Majesty, before any court, judge, or person lawfully authorised to take and receive affidavits or before any of His Majesty's consuls or vice-consuls in any place outside His Majesty's dominions.

(2) All courts, judges, justices, commissioners, and persons acting judicially shall take judicial notice of the seal or stamp or signature (as the case may be) of any such court, judge, person, consul, or vice-consul attached, appended, or subscribed to any such affidavit, or to any other document to be used for the purposes of this Part of this Act.

229.—(1) An account, called the Companies Liquidation Account, shall be kept by the Board of Trade with the Bank of England, and all moneys received by the Board in respect of proceedings under this Act in connection with the winding up of companies in England shall be paid to that account.

(2) All payments out of money standing to the credit of the Board of Trade in the Companies Liquidation Account shall be made by the Bank of England in the prescribed manner.

230.—(1) Whenever the cash balance standing to the credit of the Companies Liquidation Account is in excess of the amount which in the opinion of the Board of Trade is required for the time being to answer demands in respect of companies' estates, the Board shall notify the excess to the Treasury, and shall pay over the whole or any part of that excess as the Treasury may require, to the Treasury to such account as the Treasury may direct, and the Treasury may invest the sums paid over, or any part thereof, in Government securities, to be placed to the credit of the said account.

(2) When any part of the money so invested is, in the opinion of the Board of Trade, required to answer any demands in respect of companies' estates, the Board shall notify to the Treasury the amount so required, and the Treasury shall thereupon repay to the Board such sum as may be required to the credit of the Companies Liquidation Account, and for that purpose may direct the sale of such part of the said securities as may be necessary.

(3) The dividends on investments under this section shall be paid to such account as the Treasury may direct, and regard shall be had to the amount thus derived in fixing the fees payable in respect of proceedings in the winding up of companies in England.

231.—(1) An account shall be kept by the Board of Trade of the receipts and payments in the winding up of each company in England, and when the cash balance standing to the credit of the account of any company is in excess of the amount which, in the opinion of the committee of inspection, is required for the time being to answer demands in respect of that company's estate, the Board shall, on the request of the committee, invest the amount not so required in Government securities, to be placed to the credit of the said account for the benefit of the company.

Affidavits,  
&c., in United  
Kingdom  
and colonies.  
[s. 128.]

Companies  
Liquidation  
Account  
defined.  
[1890, c. 63,  
s. 11 (1), (5).]

Investment  
of surplus  
funds on  
general  
account  
[1890, c. 63,  
s. 16.]

Separate  
accounts of  
particular  
estates.  
[1890,  
ss. 16, 17.]

(2) When any part of the money so invested is, in the opinion of the committee of inspection, required to answer any demands in respect of the estate of the company, the Board of Trade shall, on the request of the committee, raise such sum as may be required by the sale of such part of the said securities as may be necessary.

(3) The dividends on investments under this section shall be paid to the credit of the company.

(4) When the balance at the credit of any company's account in the hands of the Board of Trade exceeds two thousand pounds, and the liquidator gives notice to the Board that the excess is not required for the purposes of the liquidation, the company shall be entitled to interest on the excess at the rate of two per cent. per annum.

232. The Treasury may issue to the Board of Trade in aid of the votes of Parliament, out of the receipts arising in respect of the winding up of companies in England from fees, fee stamps, and dividends on investments by the Treasury under this Act, any sums which may be necessary to meet the charges estimated by the Board in respect of salaries and expenses under this Act in relation to the winding up of companies in England.

233.--(1) The Board of Trade may, with the approval of the Treasury, appoint such additional officers as may be required by the Board for the execution as respects England of this Part of this Act, and may remove any person so appointed.

(2) The Board of Trade, with the concurrence of the Treasury, shall direct whether any and what remuneration is to be allowed to any officer of, or person attached to, the Board performing any duties under this Part of this Act in relation to the winding up of companies in England, and may vary, increase, or diminish that remuneration as they think fit.

(3) The Lord Chancellor, with the concurrence of the Treasury, shall direct whether any and what remuneration is to be allowed to any person (other than an officer of the Board of Trade) performing any duties under this Act in relation to the winding up of companies in England, and may vary, increase, or diminish that remuneration as he thinks fit.

234.--(1) The Treasury shall annually cause to be prepared and laid before both Houses of Parliament an account for the year ending with the thirty-first day of March, showing the receipts and expenditure during that year in respect of proceedings under this Act in relation to the winding up of companies in England, and the provisions of section twenty-eight of the Supreme Court of Judicature Act, 1875, shall apply to the account as if the account had been required by that section.

(2) The accounts of the Board of Trade under this Act in relation to the winding up of companies in England shall be audited in such manner as the Treasury direct, and, for the purpose of the account to be laid before Parliament, the Board shall make such returns and give such information as the Treasury direct.

235. The officers of the courts acting in the winding up of companies in England shall make to the Board of Trade such returns of the business of their respective courts and offices, at such times and in such manner and form as may be prescribed, and from these returns the Board shall cause books to be prepared which shall, under the regulations of the Board, be open for public information and searches.

Certain receipts and fees to be applied in aid of expenditure. [1890, c. 63, s. 19.]

Officers and remuneration. [1890, c. 63, s. 27.]

Annual accounts of English winding up. [1890, c. 63, s. 28.]

38 & 39 Vict. c. 77.

Accounts of winding up in English. [1890, c. 63, s. 29.]

236.—(1) All documents purporting to be orders or certificates made or issued by the Board of Trade for the purposes of this Act and to be sealed with the seal of the Board, or to be signed by a secretary or assistant secretary of the Board, or any person authorised in that behalf by the President of the Board, shall be received in evidence and deemed to be such orders or certificates without further proof unless the contrary is shown.

(2) A certificate signed by the President of the Board of Trade that any order made, certificate issued, or act done, is the order, certificate, or act of the Board, shall be conclusive evidence of the fact so certified.

#### *Rules and Fees.*

237.—(1) The Lord Chancellor may, with the concurrence of the President of the Board of Trade, make general rules for carrying into effect the objects of this Act so far as relates to the winding up of companies in England.

(2) All general rules made under this section shall be laid before Parliament within three weeks after they are made, if Parliament is then sitting, and if Parliament is not sitting, within three weeks after the beginning of the next session of Parliament, and shall be judicially noticed, and shall have effect as if enacted by this Act.

(3) There shall be paid in respect of proceedings under this Act in relation to the winding up of companies in England such fees as the Lord Chancellor may, with the sanction of the Treasury, direct, and the Treasury may direct by whom and in what manner the same are to be collected and accounted for, and to what account they are to be paid.

(4) All rules made and directions given by the Lord Chancellor under this section shall be adopted by the authority for the time being empowered to make rules for regulating the practice or procedure in the chancery court of the County Palatine of Lancaster, but as so adopted shall have effect with the substitution of the words "vice-chancellor" for the word "judge," and of the word "register" for the word "master," and of the words "chambers of the registrar" for the words "chambers of the judge" and "judge's chambers," and any directions as to the remuneration to be allowed to officers of that court in respect of proceedings under this Act shall be subject to the sanction of the Chancellor of the Duchy and County Palatine of Lancaster.

(5) The authority having power to make rules or give directions under this section may, by any such rules or directions, repeal, alter, or amend any rules made and directions given by the like authority under the Companies (Winding up) Act, 1890, which are in force at the commencement of this Act.

238.—(1) Subject to the provisions of this Act with respect to rules and fees in relation to the winding up of companies in England, rules of procedure for the purposes of this Act, including rules as to costs and fees, may be made—

- (a) As regards the High Court in England, by the authority having power to make rules for the Supreme Court in England;
- (b) As regards the Court of Session, by act of sederunt;
- (c) As regards the High Court in Ireland, by the authority having power to make rules for the Supreme Court in Ireland;

*Supplemental Provisions.*

*Proceedings of Board of Trade.*

[1890, c. 63, s. 30.]

*Rules and Fees.*

*Rules and fees for winding up in England.*  
[1890, c. 63, s. 26.]

53 & 54 Vict. c. 63.

*Powers to make rules of procedure.*  
[ss. 171-173; 1867, s. 20.]

*Rules and  
Fees.*

(d) As regards the court exercising the stannaries jurisdiction, by the authority having power to make rules for county courts in England!

25 & 26 Vict.  
c. 89.

(2) The authority having power to make rules under this section may by any such rules repeal, alter, or amend any rules made by the like authority under the Companies Act, 1862, or any Act amending the same, which are in force at the commencement of this Act.

*Special  
Provisions as  
to Stannaries.  
Attachment  
of debt due  
to contrib-  
utory on  
winding up  
in stannaries  
court.  
[32 & 33 Vict.  
c. 19, s. 34.]*

*Special Provisions as to 'Stannaries.'*

239. When several companies are in course of liquidation by or under the superintendence of the court exercising the stannaries jurisdiction and acting under that jurisdiction, if it appears to the judge that a person who is a contributory of one of the companies is also a creditor claiming a debt against one of the other companies, the judge may (if after inquiry he thinks fit) direct that the debt, when allowed, shall be attached, and payment thereof to the creditor suspended for a time certain as a security for payment of any calls that are or may in course of liquidation become due from him to the company of which he is a contributory; and the amount thereof shall be applied to such payment in due course:

Provided that such an order of attachment shall not prejudice any claim which the company so indebted to the creditor may have against him by way of set off, counterclaim, or otherwise, or any lawful claim of lien or specific charge on the debt in favour of any third person.

*Preferential  
payments in  
stannaries  
cases.  
[32 & 33 Vict.  
c. 19, s. 26;  
50 & 51 Vict.  
c. 43, ss. 2, 4,  
9, 10; 6 Edw. 7  
c. 58, s. 5. (4).]*

240. In the application to companies within the stannaries of the provisions of this Act with respect to preferential payments, the following modifications shall be made:—

- (1) In the case of a clerk or servant of such a company, the priority with respect to wages and salary given by this Act shall be given to the extent of three months only, instead of four months, and shall not extend to the principal agent, manager, purser, or secretary:
- (2) All wages in relation to the mine of a miner, artisan, or labourer employed in or about the mine, including all earnings by a miner arising from any description of piece or other work, or as a tributer or otherwise, but not exceeding an amount equal to three months' wages shall be included amongst the payments which are, under this Act, to be made in priority to other debts:
- (3) Wages of any miner, artisan, or labourer unpaid at the commencement of the winding up, and, subject to the provisions of section five of the Workmen's Compensation Act, 1906, all amounts (not exceeding in any individual case one hundred pounds) due in respect of compensation under that Act payable to a miner or the dependants of a miner the liability whereof accrued before the commencement of the winding up, shall, to the extent aforesaid, be paid by the liquidator forthwith in priority to all costs, except in the case of a winding up by the court such costs of and incidental to the making of the winding-up order as in the opinion of the court have been properly incurred, and to all claims by mortgagees, execution creditors, or any other persons, except the claims of clerks and servants in respect of

6 Edw. 7.  
c. 58.



*Special  
Provisions as  
to Stannaries.*

their wages or salary, and, subject as aforesaid, the court may, by order, charge the whole or any part of the assets of the company, in priority to all claims and to all existing mortgages or charges thereon, with the payment of a sum sufficient to discharge the said wages and amounts due in respect of compensation, with interest at a rate not exceeding five per cent. per annum, and this charge may be made in favour of any person who is willing to advance the requisite amount or any part thereof; and as soon as the said sum has been so advanced, the said wages and amounts due in respect of compensation shall be paid without delay so far as the amount advanced extends, and in such order of payment as the court directs.

241.—(1) On the winding up of a company within the stannaries, contributions of the miners, artisans, or labourers for the purpose of a mine club, or accident, or sick, or benefit fund shall not be deemed to be, or be applied as, part of the assets of the company in liquidation of the debts of the company or otherwise, but shall be accounted for by the purser or any other person in possession of the fund to the liquidator, and shall be recoverable by him, and be applied in accordance with the rules of the club.

*Provisions  
as to mine  
club funds.*

(2) Where the company is being wound up voluntarily, the liquidator or any person claiming to be entitled to any such contributions or fund may apply to the court for directions, or to determine any question arising in the matter in the same manner as if the company were being wound up by the court.

*Removal of  
Defunct  
Companies  
from  
Register.*

#### *Removal of Defunct Companies from Register.*

242.—(1) Where the registrar of companies has reasonable cause to believe that a company is not carrying on business or in operation, he shall send to the company by post a letter inquiring whether the company is carrying on business or in operation.

*Registrar  
may strike  
defunct  
company off  
register.  
[1880, s. 7.  
1900, s. 26.]*

(2) If the registrar does not within one month of sending the letter receive any answer thereto, he shall within fourteen days after the expiration of the month send to the company by post a registered letter referring to the first letter, and stating that no answer thereto has been received and that if an answer is not received to the second letter within one month from the date thereof, a notice will be published in the Gazette with a view to striking the name of the company off the register.

(3) If the registrar either receives an answer from the company to the effect that it is not carrying on business or in operation, or does not within one month after sending the second letter receive any answer, he may publish in the Gazette, and send to the company by post a notice that at the expiration of three months from the date of that notice the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.

(4) If, in any case where a company is being wound up, the registrar has reasonable cause to believe either that no liquidator is acting, or that the affairs of the company are fully wound up, and the returns required to be made by the liquidator have not been made for a period of six consecutive months after notice by the registrar demanding the returns has been sent by post

*Removal of  
Defunct  
Companies  
from  
Register.*

to the company; or to the liquidator at his last known place of business, the registrar may publish in the Gazette and send to the company a like notice as is provided in the last preceding subsection.

(5) At the expiration of the time mentioned in the notice the registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register, and shall publish notice thereof in the Gazette, and on the publication in the Gazette of this notice the company shall be dissolved: Provided that the liability (if any) of every director, managing officer, and member of the company shall continue and may be enforced as if the company had not been dissolved.

(6) If a company or any member or creditor thereof feels aggrieved by the company having been struck off the register, the court on the application of the company or member or creditor may, if satisfied that the company was at the time of the striking off carrying on business or in operation, or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register, and thereupon the company shall be deemed to have continued in existence as if its name had not been struck off; and the court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be, as if the name of the company had not been struck off.

(7) A letter or notice under this section may be addressed to the company at its registered office, or, if no office has been registered, to the care of some director or officer of the company, or, if there is no director or officer of the company whose name and address are known to the registrar of companies, may be sent to each of the persons who subscribed the memorandum, addressed to him at the address mentioned in the memorandum.

#### PART V

#### REGISTRATION OFFICE AND FEES

*Registration  
offices in  
England,  
Scotland,  
and Ireland  
[s. 174; 1877,  
s. 6.]*

243.—(1) For the purposes of the registration of companies under this Act, there shall be offices in England, Scotland, and Ireland, at such places as the Board of Trade think fit.

(2) The Board of Trade may appoint such registrars, assistant registrars, clerks, and servants as the Board think necessary for the registration of companies under this Act, and may make regulations with respect to their duties; and may remove any persons so appointed.

(3) The salaries of the persons appointed under this section shall be fixed by the Board of Trade with the concurrence of the Treasury, and shall be paid out of the money provided by Parliament.

(4) The Board of Trade may require that the office of the registrar of the court exercising in respect of the winding up of companies and stannaries jurisdiction shall be one of the offices for the registration of companies within that jurisdiction.

(5) The Board may direct a seal or seals to be prepared for the authentication of documents required for or connected with the registration of companies.

(6) Any person may inspect the documents kept by the registrar on payment of such fees as may be appointed by the Board of Trade, not exceeding one shilling for each inspection;

and any person may require a certificate of the incorporation of any company, or a copy or extract of any other document or any part of any other document, to be certified by the registrar on payment for the certificate certified copy or extract, of such fees as the Board of Trade may appoint, not exceeding five shillings for a certificate of incorporation, and not exceeding sixpence for each folio of a certified copy or extract, or in Scotland for each sheet of two hundred words.

(7) A copy of or extract from any document kept and registered at any of the offices for the registration of companies in England, Scotland, or Ireland, certified to be a true copy under the hand of the registrar or an assistant registrar (whose official position it shall not be necessary to prove) shall in all legal proceedings be admissible in evidence as of equal validity with the original document.

(8) Whenever any act is by this Act directed to be done to or by the registrar of companies, it shall, until the Board of Trade otherwise directs, be done in England to or by the existing registrar of joint stock companies, or in his absence to or by such person as the Board may for the time being authorise; in Scotland to or by the existing registrar of joint stock companies in Scotland; and in Ireland to or by the existing assistant registrar of joint stock companies for Ireland, or to or by such person as the Board may for the time being authorise in Scotland or Ireland, in the absence of the registrar or assistant registrar; but in the event of the Board altering the constitution of the existing registry offices or any of them, any such act shall be done to or by such officer and at such place with reference to the local situation of the registered offices of the companies to be registered as the Board may appoint.

244.—(1) There shall be paid to the registrar in respect of the several matters mentioned in Table B in the First Schedule to this Act the several fees therein specified, or such smaller fees as the Board of Trade may from time to time direct.

Fees.  
[s. 17.]

(2) All fees paid to the registrar in pursuance of this Act shall be paid into the Exchequer.

## PART VI

### APPLICATION OF ACT TO COMPANIES FORMED AND REGISTERED UNDER FORMER COMPANIES ACTS

245.—In the application of this Act to existing companies, it shall apply in the same manner in the case of a limited company other than a company limited by guarantee, as if the company had been formed and registered under this Act as a company limited by shares; in the case of a company limited by guarantee, as if the company had been formed and registered under this Act as a company limited by guarantee; and in the case of a company other than a limited company, as if the company had been formed and registered under this Act as an unlimited company.

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the Joint Stock Companies Acts, or under the Companies Act, 1862, as the case may be.

Application  
of Act to  
companies  
formed  
under former  
Companies  
Acts.  
[s. 176; 1900  
s. 31.]

Application  
of Act to  
companies  
registered  
under former  
Companies  
Acts.  
[s. 177.]

246.—This Act shall apply to every company registered but not formed under the Joint Stock Companies Acts, or the Companies Act, 1862, in the same manner as it is hereinafter in this Act declared to apply to companies registered but not formed under this Act :

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the Joint Stock Companies Acts, or the Companies Act, 1862, as the case may be.

Application  
of Act to  
companies  
re-registered  
under Com-  
panies Act,  
1879.  
42 & 43 Vict.  
c. 76.

247.—This Act shall apply to every unlimited company registered in pursuance of the Companies Act, 1879, as a limited company, in the same manner as it applies to an unlimited company registered in pursuance of this Act as a limited company :

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered as a limited company under the Companies Act, 1879.

## PART VII

### COMPANIES AUTHORISED TO REGISTER UNDER THIS ACT

Mode of  
transferring  
shares.  
[s. 178.]

248.—A company registered under the Joint Stock Companies Acts may cause its shares to be transferred in manner hitherto in use, or in such other manner as the company may direct.

Companies  
capable of  
being regis-  
tered.  
[ss. 179, 180.]

249.—(1) With the exceptions and subject to the provisions mentioned and contained in this section,—

(i) Any company consisting of seven or more members, which was in existence on the second day of November eighteen hundred and sixty-two, including any company registered under the Joint Stock Companies Acts; and

(ii) Any company formed after the date aforesaid, whether before or after the commencement of this Act, in pursuance of any Act of Parliament other than this Act, or of letters patent, or being a company within the stannaries, or being otherwise duly constituted by law, and consisting of seven or more members; may at any time register under this Act as an unlimited company, or as a company limited by shares, or as a company limited by guarantee; and the registration shall not be invalid by reason that it has taken place with a view to the company being wound up.

(2) Provided as follows:—

- (a) A company having the liability of its members limited by Act of Parliament or letters patent, and not being a joint stock company as hereinafter defined, shall not register in pursuance of this section :
- (b) A company having the liability of its members limited by Act of Parliament or letters patent shall not register in pursuance of this section as an unlimited company or as a company limited by guarantee :
- (c) A company that is not a joint stock company as hereinafter defined shall not register in pursuance of this section as a company limited by shares :
- (d) A company shall not register in pursuance of this section without the assent of a majority of such of

its members as are present in person or by proxy (in cases where proxies are allowed by the regulations of the company) at a general meeting summoned for the purpose :

- (e) Where a company not having the liability of its members limited by Act of Parliament or letters patent is about to register as a limited company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present in person or by proxy at the meeting :
- (f) Where a company is about to register as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceased to be a member, and of the costs and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

(3) In computing any majority under this section when a poll is demanded regard shall be had to the number of votes to which each member is entitled according to the regulations of the company.

(4) A company registered under the Companies Act, 1862, shall not be registered in pursuance of this section.

250.—For the purposes of this Part of this Act, as far as relates to registration of companies as companies limited by shares, a joint stock company means a company having a permanent paid-up or nominal share capital of fixed amount divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principal of having for its members the holders of those shares or that stock, and no other persons ; and such a company when registered with limited liability under this Act shall be deemed to be a company limited by shares.

Definition of  
joint stock  
company.  
[s. 181.]

251.—(1) A bank of issue registered under this Act as a limited company shall not be entitled to limited liability in respect of its notes ; and the members thereof shall be liable in respect of its notes in the same manner as if it had been registered as unlimited ; but if, in the event of the company being wound up, the general assets are insufficient to satisfy the claims of both the note-holders and the general creditors, then the members, after satisfying the remaining demands of the note-holders, shall be liable to contribute towards payment of the debts of the general creditors a sum equal to the amount received by the note-holders out of the general assets.

Liability of  
bank of issue  
unlimited in  
respect of  
notes.  
[1870, s. 6.]

(2) For the purposes of this section the expression " the general assets " means the funds available for payment of the general creditor as well as the note-holder.

(3) Any bank of issue registered under this Act as a limited company may state on its notes that the limited liability does not extend to its notes, and that the members of the company are liable in respect of its notes in the same manner as if it had been registered as an unlimited company.

Require-  
ments for  
registration  
by joint  
stock com-  
panies. s.  
[ss. 183, 185.]

252.—Before the registration in pursuance of this Part of this Act of a joint stock company there shall be delivered to the registrar the following documents (that is to say) :—

- (1) A list showing the names, addresses, and occupations of all persons who on a day named in the list, not being more than six clear days before the day of registration, were members of the company, with the addition of the shares or stock held by them respectively, distinguishing, in cases where the shares are numbered, each share by its number;
- (2) A copy of any Act of Parliament, royal charter, letters patent, deed of settlement, contract of copartnery, cost book regulations, or other instrument constituting or regulating the company; and
- (3) If the company is intended to be registered as a limited company, a statement specifying the following particulars (that is to say) :—
  - (a) The nominal share capital of the company and the number of shares into which it is divided, or the amount of stock of which it consists;
  - (b) The number of shares taken and the amount paid on each share;
  - (c) The name of the company, with the addition of the word "limited" as the last word thereof; and
  - (d) In the case of a company intended to be registered as a company limited by guarantee, the resolution declaring the amount of a guarantee.

Require-  
ments for  
registration  
by other than  
joint stock  
companies.  
[s. 184.]

253.—Before the registration in pursuance of this Part of this Act of any company not being a joint stock company, there shall be delivered to the registrar—

- (1) A list showing the names, addresses, and occupations of the directors or other managers (if any) of the company; and
- (2) A copy of any Act of Parliament, letters patent, deed of settlement, contract of copartnery, cost book regulations, or other instrument constituting or regulating the company; and
- (3) In the case of a company intended to be registered as a company limited by guarantee, a copy of the resolution declaring the amount of the guarantee.

Authentica-  
tion of state-  
ments of  
existing com-  
panies.  
[s. 186.]

254.—The list of members and directors and any other particulars relating to the company required to be delivered to the registrar shall be verified by a statutory declaration of any two or more directors or other principal officers of the company.

Registrar  
may require  
evidence as to  
nature of com-  
pany. [s. 187.]

255.—The registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether any company proposing to be registered is or is not a joint stock company as hereinafter defined

On registra-  
tion of bank-  
ing company  
with limited  
liability,  
notice to be  
given to cus-  
tomers.  
[s. 188.]

256.—(1) Where a banking company which was in existence on the seventh day of August eighteen hundred and sixty-two proposes to register as a limited company, it shall, at least thirty days before so registering, give notice of its intention so to register, to every person who has a banking account with the company, either by delivery of the notice to him, or by posting it to him, at or delivering it at, his last known address.

(2) If the company omits to give the notice required by this section, then, as between the company and the person for the

time being interested in the account in respect of which the notice ought to have been given, and so far as respects the account down to the time at which notice is given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

257.—No fees shall be charged in respect of the registration in pursuance of this Part of this Act of a company if it is not registered as a limited company, or if before its registration as a limited company the liability of the shareholders was limited by some other Act of Parliament or by letters patent.

258.—When a company registers in pursuance of this Part of this Act with limited liability, the word "limited" shall form and be registered as part of its name.

259.—On the compliance with the requirements of this Part of this Act with respect to registration, and on payment of such fees, if any, as are payable under Table B in the First Schedule to this Act, the registrar shall certify under his hand that the company applying for registration is incorporated as a company under this Act, and in the case of a limited company, that it is limited, and thereupon the company shall be incorporated, and shall have perpetual succession, and a common seal, with power to hold lands; and any banking company in Scotland so incorporated shall be deemed to be a bank incorporated, constituted, or established by or under Act of Parliament.

260.—All property, real and personal (including things in action), belonging to or vested in a company at the date of its registration in pursuance of this part of this Act, shall on registration pass to and vest in the company as incorporated under this Act for all the estate and interest of the company therein.

261.—Registration of a company in pursuance of this Part of this Act shall not affect the rights or liabilities of the company in respect of any debt or obligation incurred, or any contract entered into, by, to, with, or on behalf of the company before registration.

262.—All actions and other legal proceedings which at the time of the registration of a company in pursuance of this part of this Act are pending by or against the company, or the public officer or any member thereof, may be continued in the same manner as if the registration had not taken place; nevertheless execution shall not issue against the effects of any individual member of the company on any judgment, decree, or order obtained in any such action or proceeding; but in the event of the property and effects of the company being insufficient to satisfy the judgment, decree, or order, an order may be obtained for winding up the company.

263.—When a company is registered in pursuance of this Part of this Act—

- (i) All provisions contained in any Act of Parliament, deed of settlement, contract of copartnership, cost book regulations, letters patent, or other instrument constituting or regulating the company, including, in the case of a company registered as a company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the company in the same manner and with the same incidents as if so much thereof as would, if the company had been formed under this Act, have been required

Exemption of certain companies from payment of fees.  
[s. 189.]

Addition of "limited" to name.  
[s. 190.]

Certificate of registration of existing companies.  
[s. 191.]

Vesting of property on registration.  
[s. 195.]

Saving for existing liabilities.  
[s. 194.]

Continuation of existing actions.  
[s. 195.]

Effect of registration under Act.  
[s. 196; 189c c. 62, s. 1.]

to be inserted in the memorandum, were contained in a registered memorandum, and the residue thereof were contained in registered articles :

- (ii) All the provisions of this Act shall apply to the company, and the members, contributories, and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject as follows (that is to say) :—

(a) The regulations in Table A in the First Schedule to this Act shall not apply unless adopted by special resolution ;

(b) The provisions of this Act relating to the numbering of shares shall not apply to any joint stock company whose shares are not numbered ;

(c) Subject to the provisions of this section the company shall not have power to alter any provision contained in any Act of Parliament relating to the company ;

(d) Subject to the provisions of this section the company shall not have power, without the sanction of the Board of Trade, to alter any provision contained in any letters patent relating to the company ;

(e) The company shall not have power to alter any provision contained in a royal charter or letters patent with respect to the objects of the company ;

(f) In the event of the company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the company contracted before registration, who is liable to pay or contribute to the payment of any debt or liability of the company contracted before registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves in respect of any such debt or liability ; or to pay or contribute to the payment of the costs and expenses of winding up the company, so far as relates to such debts or liabilities as aforesaid ; and every contributory shall be liable to contribute to the assets of the company, in the course of the winding up, all sums due from him in respect of any such liability as aforesaid ; and in the event of the death, bankruptcy, or insolvency, of any contributory or marriage of any female contributory, the provisions of this Act with respect to the personal representatives, heirs, and devisees of deceased contributories, to the trustees of bankrupt or insolvent contributories, and to the liabilities of husbands and wives respectively, shall apply.

[1890, c. 62  
ss. 1 (1),  
3 (3).]

1879, s. 10.]

- (iii) The provisions of this Act with respect to

(a) The registration of an unlimited company as limited ;

(b) The powers of an unlimited company on registration as a limited company to increase the nominal amount of its share capital and to provide that a portion of its share capital shall not be capable of being called up except in the event of winding up ;

(c) The power of a limited company to determine that a portion of its share capital shall not be capable



of being called up except in the event of winding up; shall apply notwithstanding any provisions contained in any Act of Parliament, royal charter, deed of settlement, contract of copartnery, cost book regulations, letters patent, or other instrument constituting or regulating the company;

- (iv) Nothing in this section shall authorise the company to alter any such provisions contained in any deed of settlement, contract of copartnery, cost book regulations, letters patent, or other instrument constituting or regulating the company, as would, if the company had originally been formed under this Act, have been required to be contained in the memorandum and are not authorised to be altered by this Act:
- (v) Nothing in this Act shall derogate from any power of altering its constitution or regulations which may by virtue of any Act of Parliament, deed of settlement, contract of copartnery, letters patent, or other instrument constituting or regulating the company, be vested in the company.

264.—(1) Subject to the provisions of this section, a company registered in pursuance of this Part of this Act may by special resolution alter the form of its constitution by substituting a memorandum and articles for a deed of settlement.

(2) The provisions of this Act with respect to confirmation by the court and registration of an alteration of the objects of a company shall so far as applicable apply to an alteration under this section with the following modifications:—

- (a) There shall be substituted for the printed copy of the altered memorandum required to be delivered to the registrar of companies, a printed copy of the substituted memorandum and articles; and

- (b) On the registration of the alteration being certified by the registrar the substituted memorandum and articles shall apply to the company in the same manner as if it were a company registered under this Act with that memorandum and those articles, and the company's deed of settlement shall cease to apply to the company.

(3) An alteration under this section may be made either with or without any alteration of the objects of the company under this Act.

(4) In this section the expression "deed of settlement" includes any contract of copartnery or other instrument constituting or regulating the company, not being an Act of Parliament, a royal charter or letters patent.

265.—The provisions of this Act with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding-up order shall, in the case of a company registered in pursuance of this Part of this Act, where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company.

266.—Where an order has been made for winding up a company registered in pursuance of this Part of this Act no action or proceeding shall be commenced or proceeded with against the company, or any contributory of the company in respect of any debt of the company, except by leave of the court, and subject to such terms as the court may impose.

Power to substitute memorandum and articles for deed of settlement.  
[1890, c. 62, ss. 1, 2, 3.]

[1890 c. 62, s. 1 (1).]

[1890, c. 62, s. 3. (1).]

Power of court to stay or restrain proceedings.  
[s. 197.]

Actions stayed on winding-up order.  
[s. 198.]

## PART VIII

## WINDING UP OF UNREGISTERED COMPANIES

Meaning of  
unregistered  
company.  
[s. 199 ;  
50 & 51 Vict.  
c. 47, s. 3 ;  
7 Edw. 7.  
c. 24, s. 6 (4)]  
13 & 14 Vict.  
c. 83.  
32 & 33 Vict.  
c. 114.  
26 & 27 Vict.  
c. 87.

Winding up  
of unregis-  
tered com-  
panies  
[s. 199 ;  
50 & 51 Vict.  
c. 47, s. 3.]

267.—For the purposes of this Part of this Act the expression “unregistered company” shall not include a railway company incorporated by Act of Parliament (except in so far as is provided by the abandonment of Railways Act, 1850, and the Abandonment of Railways Act, 1869, and any Acts amending them), nor a company registered under the Joint Stock Companies Acts, or under the Companies Act, 1862, or under this Act, but, save as aforesaid, shall include any partnership, association, or company consisting of more than seven members, and any trustee savings bank certified under the trustees Savings Banks Act, 1863, and any limited partnership.

268.—(1) Subject to the provisions of this Part of this Act, any unregistered company may be wound up under this Act, and all the provisions of this Act with respect to winding up shall apply to an unregistered company, with the following exception and additions :—

- (i) An unregistered company shall, for the purpose of determining the court having jurisdiction in the manner of the winding up, be deemed to be registered in that part of the United Kingdom where its principal place of business is situate ; or if it has a principal place of business situate in more than one part of the United Kingdom, then in each part of the United Kingdom where it has a principal place of business ; and the principal place of business situate in that part of the United Kingdom in which proceedings are being instituted shall, for all the purposes of the winding up, be deemed to be the registered office of the company ;
- (ii) No unregistered company shall be wound up under this Act voluntarily or subject to supervision ;
- (iii) The circumstances in which an unregistered company may be wound up are as follows (that is to say) :—
  - (a) If the company is dissolved, or has ceased to carry on business, or is carrying on business only for the purpose of winding up its affairs ;
  - (b) If the company is unable to pay its debts ;
  - (c) If the court is of opinion that it is just and equitable that the company should be wound up ;
- (iv) An unregistered company shall, for the purposes of this Act, be deemed to be unable to pay its debts :—
  - (a) If a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding fifty pounds then due, has served on the company by leaving at its principal place of business, or by delivering to the secretary or some director, manager, or principal officer of the company, or by otherwise serving in such manner as the court may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has for three weeks after the service of the demand neglected to pay the sum, or to secure or compound for it to the satisfaction of the creditor ;
  - (b) If any action or other proceeding has been instituted against any member for any debt or demand due, or claimed to be due, from the company, or

from him in his character of member, and notice in writing of the institution of the action or proceeding having been served on the company by leaving the same at its principal place of business, or by delivering it to the secretary, or some director, manager, or principal officer of the company, or by otherwise serving the same in such manner as the court may approve or direct, the company has not within ten days after service of the notice paid, secured, or compounded for the debt or demand, or procured the action or proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against the action or proceeding, and against all costs, damages, and expenses to be incurred by him by reason of the same;

(c) If in England or Ireland, execution or other process issued on a judgment, decree, or order obtained in any court in favour of a creditor against the company, or any member thereof as such, or any person authorised to be sued as nominal defendant on behalf of the company, is returned unsatisfied;

(d) If in Scotland the induciæ of a charge for payment on an extract decree, or an extract registered bond, or an extract registered protest, have expired without payment being made;

(e) If it is otherwise proved to the satisfaction of the court that the company is unable to pay its debts:

- (v) The court having jurisdiction to wind up a railway company under the Abandonment of Railways Act, 1850, and the Abandonment of Railways Act, 1869, and the Acts amending them, shall be the High Court in England or Ireland, or the Court of Session in Scotland, according as the railway was authorised to be made in England, Ireland, or Scotland, and the special provisions of those acts shall apply to the winding up with the substitution of references to this Act for references to the Companies Acts, 1862 and 1867:

[32 & 33 Vict.  
c. 114, s. 2.]

Provided that, subject to general rules and to orders of transfer made as respects England, under the authority of the Supreme Court of Judicature Act, 1873, and, as respects Ireland, under the authority of the Supreme Court of Judicature (Ireland) Act, 1877, the jurisdiction of the High Court in England or Ireland under this provision shall be exercised by the Chancery Division of that Court:

[16 & 37 Vict.,  
c. 66, ss. 16 (1),  
33, 34 (2);  
40 & 41 Vict.  
c. 57, ss. 21 (1),  
35, 36.]

- (vi) A petition for winding up a trustee savings bank may be presented by the National Debt Commissioners, or by a commissioner appointed under the Trustee Savings Banks Act, 1887, as well as by any person authorised under the other provisions of this Act to present a petition for winding up a company;

[50 & 51 Vic.  
c. 47, s. 3.]

- (vii) In the case of a limited partnership the provisions of this Act with respect to winding up shall apply with such modifications (if any) as may be provided by rules made by the Lord Chancellor with the concurrence of the President of the Board of Trade, and with the substitution of general partners for directors.

[7 Edw. 7.  
c. 24, s. 6. (4)]

(2) Nothing in this Part of this Act shall affect the operation of any enactment which provides for any partnership, association, or company, being wound up, or being wound up as a company or as an unregistered company, under any enactment repealed by this Act, except that references in any such first-mentioned enactment to any such repealed enactment shall be read as references to the corresponding provision (if any) of this Act.

Contribu-  
tories in  
winding up  
of unregis-  
tered com-  
pany.  
[s. 200.]

269.—(1) In the event of an unregistered company being wound up every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves, or to pay or contribute to the payment of the costs and expenses of winding up the company, and every contributory shall be liable to contribute to the assets of the company all sums due from him in respect of any such liability as aforesaid :

[32 & 33 Vict.  
c. 19, s. 25.]

Provided that in the case of an unregistered company within the stannaries, a past member shall not be liable to contribute to the assets of the company if he has ceased to be a member for two years or more either before the mine ceased to be worked or before the date of the winding-up order.

(2) In the event of the death, bankruptcy, or insolvency, of any contributory, or marriage of any female contributory, the provisions of this Act with respect to the personal representatives, heirs, and devisees of deceased contributories, to the trustees of bankrupt or insolvent contributories, and to the liabilities of husbands and wives respectively, shall apply.

Power of  
court to stay  
or restrain  
proceedings.  
[s. 201.]

270.—The provisions of this Act with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding up order shall, in the case of an unregistered company, where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company.

Actions  
started on  
winding-up  
order.  
[s. 202.]

271.—Where an order has been made for winding up an unregistered company, no action or proceeding shall be proceeded with or commenced against any contributory of the company in respect of any debt of the company, except by leave of the court, and subject to such terms as the court may impose.

Directions as  
to property  
in certain  
cases.  
[s. 203.]

272.—If an unregistered company has no power to sue and be sued in a common name, or if for any reason it appears expedient, the court may by the winding-up order, or by any subsequent order, direct that all or any part of the property, real and personal (including things in action), belonging to the company, or to trustees on its behalf, is to vest in the liquidator by his official name, and thereupon the property or the part thereof specified in the order shall vest accordingly; and the liquidator may after giving such indemnity (if any) as the court may direct, bring or defend in his official name any action or other legal proceedings relating to that property, or necessary to be brought or defended for the purposes of effectual winding up the company and recovering its property.

Provisions of  
Part of Act  
cumulative.  
[s. 204.]

273.—The provisions of this Part of this Act with respect to unregistered companies shall be in addition to and not in restriction of any provisions hereinbefore in this Act contained with respect to winding up companies by the court, and the

court or liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by it or him in winding up companies formed and registered under this Act; but an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Act, and then only to the extent provided by this Part of this Act.

## PART IX

## COMPANIES ESTABLISHED OUTSIDE THE UNITED KINGDOM

274.—(1) Every company incorporated outside the United Kingdom which on the first day of July nineteen hundred and eight has a place of business in the United Kingdom, and every such company which after that date establishes a place of business within the United Kingdom, shall within three months from that date or within one month from the establishment of the place of business, as the case may be, file with the registrar of companies—

Requirements as to companies established outside the United Kingdom. 1907, ss. 3 52 (1.)

(a) A certified copy of the charter, statutes, or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company, and if the instrument is not written in the English language, a certificated translation thereof;

(b) A list of the directors of the company;

(c) The names and addresses of some one or more persons resident in the United Kingdom authorised to accept on behalf of the company service of process and any notices required to be served on the company; and, in the event of any alteration being made in any such instrument or in the directors or in the names or addresses of any such persons as aforesaid, the company shall within the prescribed time file with the registrar a notice of the alteration.

(2) Any process or notice required to be served on the company shall be sufficiently served if addressed to any person whose name has been so filed as aforesaid and left at or sent by post to the address which has been so filed.

(3) Every company to which this section applies shall in every year file with the registrar such a statement in the form of a balance sheet as would, if it were a company formed and registered under this act and having a share capital, be required under this Act to be included in the annual summary.

(4) Every company to which this section applies, and which uses the word " Limited " as part of its name shall—

(a) In every prospectus inviting subscriptions for its shares or debentures in the United Kingdom state the country in which the company is incorporated; and

(b) Conspicuously exhibit on every place where it carries on business in the United Kingdom the name of the company and the country in which the company is incorporated; and

(c) Have the name of the company and of the country in which the company is incorporated mentioned in legible characters in all bill-heads and letter paper, and in all notices, advertisements, and other official publications of the company.

(5) If any company to which this section applies fails to

comply with any of the requirements of this section the company, and every officer or agent of the company, shall be liable to a fine not exceeding fifty pounds, or, in the case of a continuing offence, five pounds for every day during which the default continues.

(6) For the purposes of this section—

The expression "certified" means certified in the prescribed manner to be a true copy or a correct translation; The expression "place of business" includes a share transfer or share registration office;

The expression "director" includes any person occupying the position of director, by whatever name called; and

The expression "prospectus" means any prospectus, notice, circular, advertisement, or other invitation, offering to the public for subscription or purchase any shares or debentures of the company.

(7) There shall be paid to the registrar for registering any document required by this section to be filed with him a fee of five shillings or such smaller fee as may be prescribed.

Power of companies incorporated in British possessions to hold lands.  
[1908, 8 Edw. 7, c. 12.]

275.—A company incorporated in a British possession which has filed with the registrar of companies the documents and particulars specified in paragraphs (k), (b), and (c) of sub-section (1) of the last foregoing section shall have the same power to hold lands in the United Kingdom as if it were a company incorporated under this Act.

## PART X

### SUPPLEMENTAL

#### *Legal Proceedings, Offences, etc.*

*Legal Proceedings, Offences, etc.*  
Prosecution of offences.  
[1907, s. 49.]

276.—(1) All offences under this Act made punishable by any fine may be prosecuted under the Summary Jurisdiction Acts.

[1900, s. 34 (3).]

(2) In Scotland all prosecutions for offences or fines under the provisions of this Act relating to—

(a) The appointment of directors;

(b) The restrictions on commencement of business by a company;

(c) Returns as to allotment;

(d) False statements in respect of which a penalty is provided by this Part of this Act;

(e) The filing of copies of a prospectus, an order revoking the dissolution, or an order sanctioning the reorganisation of the share capital of a company;

(f) The filing of notice of appointment of a liquidator or of the accounts of a receiver or manager;

(g) General meetings;

(h) Companies established outside the United Kingdom;

(i) The issue of debentures and certificates of shares and debenture stock;

(j) The issue, circulation, and publication of balance sheets;

(k) Unqualified persons acting as directors;

(l) The inspection of registers of debenture holders and the furnishing of copies of trust deeds;

shall be at the instance of the Lord Advocate or a Procurator fiscal as the Lord Advocate may direct.

Applications of fines.  
[s. 66.]

277.—The court imposing any fine under this Act may direct that the whole or any part thereof be applied in or towards

payment of the costs of the proceedings, or in or towards the rewarding the person on whose information or at whose suit the fine is recovered, and subject to any such direction as fines under this Act shall, notwithstanding anything in any other Act, be paid into the Exchequer.

*Legal Proceedings, Offences, etc.*

278.—Where a limited company is plaintiff or pursuer in any action or other legal proceedings, any judge having jurisdiction in the matter may, if it appears by credible testimony that there is reason to believe that the company will be unable to pay the costs of the defendant if successful in his defence, require sufficient security to be given for those costs, and may stay all proceedings until the security is given.

Costs in actions by certain limited companies. [s. 59.]

279.—If in any proceeding against a director, or person occupying the position of director, of a company for negligence or breach of trust it appears to the court hearing the case that the director or person is or may be liable in respect of the negligence or breach of trust, but has acted honestly and reasonably, and ought fairly to be excused for the negligence or breach of trust, that court may relieve him, either wholly or partly, from his liability on such terms as the court may think proper.

Power of court to grant relief in certain cases. [1907, s. 32. See 1900, s. 30.]

280.—(1) In the case of a company subject to the stannaries jurisdiction, the court exercising the stannaries jurisdiction shall have and exercise the like jurisdiction and powers, as well on the common law as on the equity side thereof, as the Court of the Vice-Warden of the stannaries possessed before the commencement of the Stannaries Court (Abolition) Act, 1896, by custom, usage, or statute in the case of unincorporated companies, but only so far as is consistent with the provisions of this Act and with the constitution of companies as prescribed or required by this Act.

Jurisdiction of stannaries court. [s. 58.]

(2) For the purpose of giving fuller effect to that jurisdiction, all process issuing out of the said court, and all orders, rules, demands, notices, warrants, and summonses required or authorised by the practice of the court to be served on any company, whether registered or not registered, or on any member or contributory thereof, or on any officer, agent, director, manager, or servant thereof, may be served in any part of England without any special order of the judge for that purpose, or by such special order may be served in any part of the British Islands, on such terms and conditions as the court may think fit:

59 & 60 Vict. c. 45.

Provided that no such service of process out of the limits of the stannaries in any suit or plaint on the common law side of the court shall be effected without the special order of the judge made on a statement of the nature and object of the suit or plaint.

[32 & 33 Vict. c. 19, s. 31.]

(3) All decrees, orders, and judgments of the said court may be enforced in the same manner in which decrees, orders, and judgments of the Court of the Vice-Warden of the stannaries could before its abolition have been by law enforced, whether within or beyond the stannaries.

281.—If any person in any return, report, certificate, balance sheet, or other document, required by or for the purposes of any of the provisions of this Act specified in the Sixth Schedule hereto, wilfully makes a statement false in any material particular, knowing it to be false, he shall be guilty of a misdemeanour, and shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, with or without hard

Penalty for false statement. [1900, s. 28; 1907, s. 42 (1)]

*Legal  
Proceedings,  
Offences, etc.*

labour, and, on summary conviction to imprisonment for a term not exceeding four months, with or without hard labour, and in either case to a fine in lieu of or in addition to such imprisonment as aforesaid :

Provided that the fine imposed on summary conviction shall not exceed one hundred pounds.

Penalty for  
improper use  
of word

" Limited."

[1907, s. 48.]

*Report by  
Board of  
Trade.*

Annual report  
by Board of  
Trade.

[1907, s. 47.]

*Authentication  
of Document  
issued by Board  
of Trade.*

Authentica-  
tion of docu-  
ments issued  
by Board of  
Trade.

[1907, s. 46.]

*Interpretation,  
etc.*

Interpreta-  
tion.

[ss. 62, 64 ;

1900, s. 30 ;

1907, s. 52

1.)]

19 & 20 Vict.  
s. 47

1883, c. 30.  
s. 2.]

[ss. 115, 127,  
154, 155, 166.]

s. 81 ; 186.  
s. 12 ; 189a.  
c. 63 s. 32 (2)

282.—If any person or persons trade or carry on business under any name or title of which " Limited " is the last word, that person or those persons shall, unless duly incorporated with limited liability, be liable to a fine not exceeding five pounds for every day upon which that name or title has been used.

*Report by Board of Trade.*

283.—The Board of Trade shall cause a general annual report of matters within this Act to be prepared and laid before both Houses of Parliament.

*Authentication of Documents issued by Board of Trade.*

284.—Any approval, sanction, or licence, or revocation of licence, which under this Act may be given or made by the Board of Trade may be under the hand of a secretary or assistant secretary of the Board, or of any person authorised in that behalf by the President of the Board.

*Interpretation, &c.*

285.—In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them (that is to say) :—

" Existing company " means a company formed and registered under the Joint Stock Companies Acts, or under the Companies Act, 1862 ;

" Company " means a company formed and registered under this Act or an existing company ;

" Articles " means the articles of association of a company, as originally framed or as altered by special resolution, including, so far as they apply to the company, the regulations contained (as the case may be) in Table B in the Schedule annexed to the Joint Stock Companies Act, 1856, or in Table A in the First Schedule annexed to the Companies Act, 1862, or in that Table as altered in pursuance of section seventy-one of that Act, or in Table A in the First Schedule to this Act ;

" Memorandum " means the memorandum of association of a company, as originally framed or as altered in pursuance of the provisions of this Act ;

" Document " includes summons, notice, order, and other legal process, and registers ;

" Share " means share in the share capital of the company, and includes stock except where a distinction between stock and shares is expressed or implied ;

" Debenture " includes debenture stock ;

" Books and papers " and " books or papers " include accounts, deeds, writings, and documents ;

" The registrar of companies " or, when used in relation to registration of companies, " the registrar," means the registrar or other officer performing under this Act the duty of registration of companies in England, Scotland, or Ireland, or in the stannaries, as the case requires

" The court " used in relation to a company means the court having jurisdiction to wind up the company ;



- "Joint Stock Companies Acts" means the Joint Stock Companies Act, 1856, the Joint Stock Companies Acts, 1856, 1857, the Joint Stock Banking Companies Act, 1857, and the Act to enable Joint Stock Banking companies to be formed on the principle of limited liability, or any one or more of those Acts, as the case may require; but does not include the Act passed in the eighth year of the reign of Her Majesty Queen Victoria, chapter one hundred and ten, intituled An Act for the Registration, Incorporation, and Regulation of Joint Stock Companies;
- "The Gazette" means, as respects companies registered in England, the London Gazette; as respects companies registered in Scotland, the Edinburgh Gazette; and as respects companies registered in Ireland, the Dublin Gazette;
- "Real and personal," as respects Scotland, means heritable and moveable;
- "General rules" means general rules made under this Act, and includes forms;
- "Prescribed" means, as respects the provisions of this Act relating to the winding up of companies, prescribed by general rules, and as respect the other provisions of this Act, prescribed by the Board of Trade;
- "Company within the stannaries" means a company engaged in or formed for working mines within the stannaries;
- "The court exercising the stannaries jurisdiction" used in relation to any proceedings means the county court in which the jurisdiction formerly exercised by the court of vice-warden of the stannaries in respect of those proceedings is for the time being vested;
- "Director" includes any person occupying the position of director by whatever name called;
- "Prospectus" means any prospectus, notice, circular, advertisement, or other invitation, offering to the public for subscription or purchase any shares or debentures of a company.

• Interpretation,  
• etc.  
[s. 175.]

[ss. 132, 142;  
1880, s. 7 (8).]

[1890, c. 63,  
s. 32 (1)]

[50 & 51 Vict.  
c. 43, s. 28.]  
[59 & 60 Vict.  
c. 45, s. 1.]

*Repeal of  
Acts and  
Transitional  
Provisions.*

286.—(1) The Acts mentioned in the First Part of the Sixth Schedule to this Act are hereby repealed to the extent specified in the third column of that Part:

Provided that the repeal shall not affect—

- (a) The incorporation of any company registered under any enactment hereby repealed; nor
- (b) Table B in the schedule annexed to the Joint Stock Companies Act, 1856, or any part thereof, so far as the same applies to any company existing at the commencement of this Act; nor
- (c) Table A in the First Schedule annexed to the Companies Act, 1862, or any part thereof (either as originally contained in that Schedule or as altered in pursuance of section seventy-one of that Act) so far as the same applies to any company existing at the commencement of this Act; nor
- (d) The continuance in force of the enactments set out in the Second Part of the Sixth Schedule of this Act, being the enactments continued in force by section two hundred and five of the Companies Act, 1862.

• Repeal of  
• Acts and  
• savings.  
[ss. 205, 206.]

*Acts and  
transitional  
provisions.*  
[Cr. 57 & 58  
Vict. c. 60,  
s. 745 (2)] 52  
& 53 Vict. c. 63  
Saving of  
pending pro-  
ceedings for  
winding up.  
[s. 207; 1890,  
c. 63, s. 31 (1).]

Saving of  
deeds.  
[s. 208.]

Former re-  
gistration  
offices, regis-  
ters, official  
receivers, &c.,  
continued.  
[s. 174 (6).]

Saving for  
existing rules  
of procedure,  
&c.  
[ss. 171 173;  
1867, s. 20.]

Substitution  
of provisions  
of this Act for  
provisions of  
repealed Acts.

(2) The mention of particular matters in this section or in any other section of this Act shall not prejudice the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals.

287.—The provisions of this Act with respect to winding up shall not apply to any company of which the winding up has commenced before the commencement of this Act, but every such company shall be wound up in the same manner and with the same incidents as if this Act had not passed, and for the purposes of the winding up the Act or Acts under which the winding up commenced shall be deemed to remain in full force.

288.—Every conveyance, mortgage, or other deed, made before the commencement of this Act in pursuance of any enactment hereby repealed, shall be of the same force as if this Act had not passed, and for the purposes of that deed the repealed enactment shall be deemed to remain in full force.

289.—(1) The offices existing at the commencement of this Act in England, Scotland, and Ireland for registration of joint stock companies shall be continued as if they had been established under this Act.

(2) Registers of companies kept in any such existing offices shall respectively be deemed part of the registers of companies to be kept under this act.

(3) The existing registrars, assistant registrars, officers, clerks, and servants in those offices shall during the pleasure of the Board of Trade hold the offices and receive the salaries hitherto held and received by them, but subject to any regulations of the Board of Trade with regard to the execution of their duties.

(4) The existing official receivers and officers of the Board of Trade appointed for the execution of the Companies (Winding Up) Act, 1890, shall during the pleasure of the Board of Trade hold the offices and receive the salaries or remuneration hitherto held and received by them.

(5) Persons, other than officers of the Board of Trade, performing any duties under the Companies (Winding Up) Act, 1890, and receiving therefor any salary or remuneration by the direction of the Lord Chancellor, shall during his pleasure receive the salaries or remuneration hitherto received by them.

(6) The Companies Liquidation Account under this Act shall be deemed to be in continuation of the Companies Liquidation Account under the Companies (Winding Up) Act, 1890.

290.—Until revoked and except as varied under the powers of this Act, the general rules and orders, and scales of fees, under the Companies (Winding-up) Act, 1890, in force at the commencement of this Act, and the rules of court in force at the commencement of this Act in England, Scotland, and Ireland respectively with respect to the procedure for reduction of capital, and to winding up companies, and the practice and procedure for winding up companies in England, Scotland, and Ireland respectively in force at the commencement of this Act, shall, so far as they are not inconsistent with this Act, continue in force.

291.—Where any enactment repealed by this Act is mentioned or referred to in any document, that document shall be read as if the corresponding provision (if any) of this Act were

therein mentioned or referred to and substituted for the repealed enactment.

*Repeal of  
Acts and  
Transitional  
Provisions.*

292.—Nothing in this Act shall affect the power of a company to alter its memorandum under the provisions of section three of the Mortgage Debenture Act, 1865.

Saving for  
28 & 29 Vict.  
c. 78. s. 3.

293.—Nothing in this Act shall affect the provisions of the Life Assurance Companies Acts, 1870 to 1872, except that references in those Acts to any provision of the Companies Act, 1862, shall be read as references to the corresponding provision of this Act.

Saving for Life  
Assurance Com-  
panies Acts.  
33 & 34 Vict. c.  
61. 34 & 35 Vict.  
c. 58. 35 & 36  
Vict. c. 41.

294.—Nothing in this Act shall affect the provisions of section five of the Trade Union Act, 1871, except that the reference in that section to the Companies Acts, 1862 and 1867, shall be read as a reference to this Act.

Saving for  
34 & 35 Vict.  
c. 31. s. 5.

295.—This Act may be cited as the Companies (Consolidation) Act, 1908.

Short title.

296.—This Act shall come into operation on the first day of April nineteen hundred and nine.

Commence-  
ment of Act.

# SCHEDULES

Sections 10, 11

## First Schedule

### TABLE A.

#### REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

##### *Preliminary.*

1. In these regulations, unless the context otherwise requires, expressions defined in the Companies Act, 1908, or any statutory modification thereof in force at the date at which these regulations become binding on the company, shall have the meanings so defined; and words importing the singular shall include the plural, and vice versa, and words importing the masculine gender shall include females, and words importing persons shall include bodies corporate.

##### *Business.*

2. The directors shall have regard to the restrictions on the commencement of business imposed by section eighty-seven of the Companies Act, 1908, if, and so far as, those restrictions are binding upon the company.

##### *Shares.*

3. Subject to the provisions, if any, in that behalf of the memorandum of association of the company, and without prejudice to any special rights previously conferred on the holders of existing shares in the company, any share in the company may be issued with such preferred, deferred, or other special rights, or such restrictions, whether in regard to dividend, voting, return of share capital or otherwise, as the company may from time to time by special resolution determine.

4. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings shall mutatis mutandis apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class.

5. No share shall be offered to the public for subscription

except upon the terms that the amount payable on application shall be at least five per cent. of the nominal amount of the share; and the directors shall, as regards any allotment of shares, duly comply with such of the provisions of sections eighty-five and eighty-eight of the Companies (Consolidation) Act, 1908, as may be applicable thereto.

6. Every person whose name is entered as a member in the register of members shall, without payment, be entitled to a certificate under the common seal of the company specifying the share or shares held by him and the amount paid up thereon, provided that in respect of a share or shares held jointly by several persons the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all.

If a share certificate is defaced, lost, or destroyed, it may be renewed on payment of such fee, if any, not exceeding one shilling and on such terms, if any, as to evidence and indemnity as the directors think fit.

8.—No part of the funds of the company shall be employed in the purchase of, or in loans upon the security of, the company's shares.

#### *• Lien.*

9.—The company shall have a lien on every share (not being a fully-paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the company shall also have a lien on all shares (other than fully-paid shares) standing registered in the name of a single person, for all moneys presently payable by him or his estate to the company; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause. The company's lien, if any, on a share shall extend to all dividends payable thereon.

10.—The company may sell, in such manner as the directors think fit, any shares on which the company has a lien, but no sale shall be made unless some sum in respect of which the lien exists, is presently payable. Nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled by reason of his death or bankruptcy to the share.

11.—The proceeds of the sale shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale. The purchaser shall be registered as the holder of the shares, and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

#### *Calls on Shares.*

12.—The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares, provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than one month from the last

call; and each member shall (subject to receiving at least fourteen days' notice specifying the time or times of payment) pay to the company at the time or times so specified the amount called on his shares.

13.—The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

14.—If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of five pounds per cent. per annum, from the day appointed for the payment thereof to the time of the actual payment, but the directors shall be at liberty to waive payment of that interest wholly or in part.

15.—The provisions of these regulations as to payment of interest shall apply in the case of nonpayment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.

16.—The directors may make arrangements on the issue of shares for a difference between the holders in the amount of calls to be paid and in the times of payment.

17.—The directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him; and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding, without the sanction of the company in general meeting, six per cent.) as may be agreed upon between the member paying the sum in advance and the directors.

#### *Transfer and Transmission of Shares.*

18.—The instrument of transfer of any share in the company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members, in respect thereof.

19.—Shares in the company shall be transferred in the following form or in any usual or common form which the creditors shall approve:

"I, A.B. of \_\_\_\_\_ in consideration of the sum of £ \_\_\_\_\_ paid to me by C.D. of \_\_\_\_\_ (hereinafter called 'the said transferee') do hereby transfer to the said transferee the share [or shares] numbered \_\_\_\_\_ in the undertaking called the \_\_\_\_\_ Company Limited, to hold unto the said transferee, his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution thereof; and I, the said transferee, do hereby agree to take the said share [or shares] subject to the conditions aforesaid. As witness our hands the \_\_\_\_\_ day of \_\_\_\_\_

"Witness to the signatures of, etc."

20.—The directors may decline to register any transfer of shares, not being fully paid shares, to a person of whom they do not approve, and may also decline to register any transfer of shares on which the company has a lien. The directors may also suspend the registration of transfers during the fourteen days immediately preceding the ordinary general meeting

in each year. The directors may decline to recognise any instrument of transfer unless—

- (a) a fee not exceeding two shillings and sixpence is paid to the company in respect thereof, and
- (b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.

21.—The executors or administrators of a deceased sole holder of a share shall be the only person recognised by the company as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or survivor, or the executors or administrators of the deceased survivor, shall be the only persons recognised by the company as having any title to the share.

22.—Any person becoming entitled to a share in consequence of the death or bankruptcy of a member shall, upon such evidence being produced as may from time to time be required by the directors, have the right, either to be registered as a member in respect of the share or instead of being registered himself, to make such transfer of the share as the deceased or bankrupt person could have made; but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or bankrupt person before the death or bankruptcy.

23.—A person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

#### *Forfeiture of Shares.*

24.—If a member fails to pay any call or instalment of a call on the day appointed for payment thereof, the directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

25. The notice shall name a further day (not earlier than the expiration of fourteen days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of nonpayment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.

26. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may, at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

27. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

28. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the company all moneys

which, at the date of forfeiture, were presently payable by him to the company in respect of the shares, but his liability shall cease if and when the company receive payment in full of the nominal amount of the shares.

29. A statutory declaration in writing that the declarant is a director of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share, and that declaration, and the receipt of the company for the consideration, if any, given for the share on the sale or disposition thereof shall constitute a good title to the share, and the person to whom the share is sold or disposed of shall be registered as the holder of the share and shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

30. The provisions of these regulations as to forfeiture shall apply in the case of nonpayment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by the way of premium, as if the same had been payable by virtue of a call duly made and notified.

#### *Conversion of Shares into Stock.*

31. The directors may, with the sanction of the company previously given in general meeting, convert any paid-up shares into stock, and may with the like sanction reconvert any stock into paid-up shares of any denomination.

32. The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same regulations, as, and subject to which, the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; but the directors may from time to time fix the minimum amount of stock transferable, and restrict or forbid the transfer of fractions of that minimum, but the minimum shall not exceed the nominal amount of the shares from which the stock arose.

33. The holders of stock shall, according to the amount of the stock held by them, have the same rights, privileges, and advantages as regards dividends, voting at meetings of the company, and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company) shall be conferred by any such aliquot part of stock as would not, if existing in shares, have conferred that privilege or advantage.

34. Such of the regulations of the company (other than those relating to share warrants) as are applicable to paid-up shares shall apply to stock, and the words "share" and "shareholder" therein shall include "stock" and "stock-holder."

#### *Share Warrants.*

35. The company may issue share warrants, and accordingly the directors may in their discretion, with respect to any share which is fully paid up, on application in writing signed by the person registered as holder of the share, and authenticated by such evidence, if any, as the directors may from time to time



require as to the identity of the person signing the request, and on receiving the certificate, if any, of the share, and the amount of the stamp duty on the warrant and such fee as the directors may from time to time require, issue under the company's seal a warrant, duly stamped, stating that the bearer of the warrant is entitled to the shares therein specified, and may provide by coupons, or otherwise, for the payment of dividends, or other money, on the shares included in the warrant.

36. A share warrant shall entitle the bearer to the shares included in it, and the shares shall be transferred by the delivery of the share warrant, and the provisions of the regulations of the company with respect to transfer and transmission of shares shall not apply thereto.

37. The bearer of a share warrant shall, on surrender of the warrant to the company for cancellation, and on payment of such sum as the directors may from time to time prescribe, be entitled to have his name entered as a member in the register of members in respect of the shares included in the warrant.

38. The bearer of a share warrant may at any time deposit the warrant at the office of the company, and so long as the warrant remains so deposited the depositor shall have the same right of signing a requisition for calling a meeting of the company, and of attending and voting and exercising the other privileges of a member at any meeting held after the expiration of two clear days from the time of deposit, as if his name were inserted in the register of members as the holder of the shares included in the deposited warrant. Not more than one person shall be recognised as depositor of the share warrant. The company shall, on two days' written notice return the deposited share warrant to the depositor.

39. Subject as herein otherwise expressly provided, no person shall, as bearer of a share warrant, sign a requisition for calling a meeting of the company, or attend, or vote, or exercise any other privilege of a member at a meeting of the company, or be entitled to receive any notices from the company; but the bearer of a share warrant shall be entitled in all other respects to the same privileges and advantages as if he were named in the register of members as the holder of the shares included in the warrant, and he shall be a member of the company.

40. The directors may from time to time make rules as to the terms on which (if they shall think fit) a new share warrant or coupon may be issued by way of renewal in case of defacement, loss, or destruction.

#### *Alteration of Capital.*

41. The directors may, with the sanction of an extraordinary resolution of the company, increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

42. Subject to any direction to the contrary that may be given by the resolution sanctioning the increase of share capital, all new shares shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time

within which the offer, if not accepted, will be deemed to be declined, and after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares) cannot, in the opinion of the directors, be conveniently offered under this article.

43. The new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture, and otherwise as the shares in the original share capital.

44. The company may, by special resolution—

- (a) Consolidate and divide its share capital into shares of larger amount than its existing shares :
- (b) By subdivision of its existing shares, or any of them, divide the whole, or any part, of its share capital into shares of smaller amount than is fixed by the memorandum of association, subject, nevertheless, to the provisions of paragraph (d) of subsection (1) of section forty-one of the Companies (Consolidation) Act, 1908 :
- (c) Cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person :
- (d) Reduce its share capital in any manner and with, and subject to, any incident authorised, and consent required, by law.

#### *General Meetings.*

45. The statutory general meeting of the company shall be held within the period required by section sixty-five of the Companies (Consolidation) Act, 1908.

46. A general meeting shall be held once in every year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the month following that in which the anniversary of the company's incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which the meetings are to be convened by the directors.

47. The above-mentioned general meetings shall be called ordinary meetings ; all other general meetings shall be called extraordinary.

48. The directors may, whenever they may think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists, as provided by section sixty-six of the Companies (Consolidation) Act, 1908. If at any time there are not within the United Kingdom sufficient directors capable of acting to form a quorum, any director or any two members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

*Proceedings at General Meetings.*

49. Seven days' notice at least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day, and the hour of meeting and, in case of special business, the general nature of that business shall be given in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company; but the non-receipt of the notice by any member shall not invalidate the proceedings at any general meeting.

50. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, the consideration of the accounts, balance-sheets, and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

51. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, three members personally present shall be a quorum.

52. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.

53. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company.

54. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

55. The chairman may, with the consent of any meeting at which a quorum is present (and shall, if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

56. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least three members, and, unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or



to vote for me and on my behalf at the [ordinary or extraordinary, as the case may be] general meeting of the company to be held on the day of and at any adjournment thereof.

Signed this day of

Directors.

68. The number of the directors and the names of the first directors shall be determined in writing by a majority of the subscribers of the memorandum of association.

69. The remuneration of the directors shall from time to time be determined by the company in general meeting.

70. The qualification of a director shall be the holding of at least one share in the company, and it shall be his duty to comply with the provisions of section seventy-three of the Companies (Consolidation) Act, 1908.

#### *Powers and Duties of Directors.*

71. The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company as are not, by the Companies (Consolidation) Act, 1908, or any statutory modification thereof for the time being in force, or by these articles, required to be exercised by the company in general meeting, subject nevertheless to any regulation of these articles, to the provisions of the said Act, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

72. The directors may from time to time appoint one or more of their body to the office of managing director or manager for such term, and at such remuneration (whether by way of salary, or commission, or participation in profits, or partly in one way, and partly in another) as they may think fit, and a director so appointed shall not, while holding that office, be subject to retirement by rotation, or taken into account in determining the rotation of retirement of directors; but his appointment shall be subject to determination ipso facto if he ceases for any cause to be a director, or if the company in general meeting shall resolve that his tenure of office of managing director or manager be determined.

73. The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the company (otherwise than by the issue of share capital) shall not at any time exceed the issued share capital of the company without the sanction of the company in general meeting.

74. The directors shall duly comply with the provisions of the Companies (Consolidation) Act, 1908, or any statutory modification thereof for the time being in force, and in particular with the provisions in regard to the registration of the particulars of mortgages and charges affecting the property of the company, or created by it, and to keeping a register of the directors, and to sending to the Registrar of Companies an annual list of members, and a summary of particulars relating thereto, and notice of any

consolidation or increase of share capital, or conversion of shares into stock, and copies of special resolutions, and a copy of the register of directors and notifications of any changes therein.

75. The directors shall cause minutes to be made in books provided for the purpose—

- (a) of all appointments of officers made by the directors;
- (b) of the names of the directors present at each meeting of the directors and of any committee of the directors;
- (c) of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors,

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

#### *The Seal.*

76. The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of at least two directors, and of the secretary or such other person as the directors may appoint for the purpose; and those two directors and secretary or other person as aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

#### *Disqualifications of Directors.*

77. The office of director shall be vacated, if the director—

- (a) ceases to be a director by virtue of section seventy-three of the Companies (Consolidation) Act, 1908; or
- (b) holds any other office of profit under the company except that of managing director or manager; or
- (c) becomes bankrupt; or
- (d) is found lunatic or becomes of unsound mind; or
- (e) is concerned or participates in the profits of any contract with the company:

Provided, however, that no director shall vacate his office by reason of his being a member of any company which has entered into contracts with or done any work for the company of which he is a director: but a director shall not vote in respect of any such contract or work, and if he does so vote his vote shall not be counted.

#### *Rotation of Directors.*

78. At the first ordinary meeting of the company the whole of the directors shall retire from office, and at the ordinary meeting in every subsequent year one-third of the directors for the time being, or if their number is not three or a multiple of three, then the number nearest to one-third, shall retire from office.

79. The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who become directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

80. A retiring director shall be eligible for re-election.

81. The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto.

82. If at any meeting at which an election of directors ought to take place the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week at the same time and place, and if at the adjourned meeting the places of the vacating directors are not filled up, the vacating directors, or such of them as have not had their places filled up, shall be deemed to have been re-elected at the adjourned meeting.

83. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

84. Any casual vacancy occurring in the board of directors may be filled up by the directors, but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

85. The directors shall have power at any time, and from time to time, to appoint a person as an additional director who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

86. The company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead; the person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

\* \* \* *Proceedings of Directors.*

87. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

88. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall (when the number of directors exceeds three) be three.

89. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

90. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within fifteen minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

91. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of

the powers so delegated conform to any regulations that may be imposed on them by the directors.

92. A committee may elect a chairman of their meetings: if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

93. A committee may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

94. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

#### *Dividends and Reserve.*

95. The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the directors.

96. The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company.

97. No dividend shall be paid otherwise than out of profits.

98. Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so long as nothing is paid up on any of the shares in the company dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this article as paid on the share.

99. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for meeting contingencies, or for equalising dividends, or for any other purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit.

100. If several persons are registered as joint holders of any share, any one of them may give effectual receipts for any dividend payable on the share.

101. Notice of any dividend that may have been declared shall be given in manner hereinafter mentioned to the persons entitled to share therein.

102. No dividend shall bear interest against the company.

#### *Accounts.*

103. The directors shall cause true accounts to be kept—

- Of the sums of money received and expended by the company and the matter in respect of which such receipt and expenditure takes place, and
- Of the assets and liabilities of the company.



104. The books of account shall be kept at the registered office of the company, or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

105. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by statute or authorised by the directors or by the company in general meeting.

106. Once at least in every year the directors shall lay before the company in general meeting a profit and loss account for the period since the preceding account or (in the case of the first account) since the incorporation of the company, made up to a date not more than six months before such meeting.

107. A balance-sheet shall be made out in every year and laid before the company in general meeting made up to a date not more than six months before such meeting. The balance-sheet shall be accompanied by a report of the directors as to the state of the company's affairs, and the amount which they recommend to be paid by way of dividend, and the amount, if any, which they propose to carry to a reserve fund.

108. A copy of the balance-sheet and report shall, seven days previously to the meeting, be sent to the persons entitled to receive notices of general meetings in the manner in which notices are to be given hereunder.

#### *Audit.*

109. Auditors shall be appointed and their duties regulated in accordance with sections one hundred and thirteen and one hundred and fourteen of the Companies (Consolidation) Act, 1908, or any statutory modification thereof for the time being in force.

#### *Notices.*

110. A notice may be given by the company to any member either personally, or by sending it by post to him to his registered address, or (if he has no registered address in the United Kingdom) to the address, if any, within the United Kingdom supplied by him to the company for the giving of notices to him.

Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and unless the contrary is proved to have been effected at the time at which the letter would be delivered in the ordinary course of post.

111. If a member has no registered address in the United Kingdom and has not supplied to the company an address within the United Kingdom for the giving of notices to him, a notice addressed to him and advertised in a newspaper circulating in the neighbourhood of the registered office of the company, shall be deemed to be duly given to him on the day on which the advertisement appears.

112. A notice may be given by the company to the joint holders of a share by giving the notice to the joint holder named first in the register in respect of the share.

113. A notice may be given by the company to the persons

entitled to a share in consequence of the death or bankruptcy of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of the representatives of the deceased, or trustee of the bankrupt or by any like description, at the address, if any, in the United Kingdom supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.

114. Notice of every general meeting shall be given in some manner hereinbefore authorised to (a) every member of the company (including bearers of share warrants), except those members who (having no registered address within the United Kingdom) have not supplied to the company an address within the United Kingdom for the giving of notices to them, and also to (b) every person entitled to a share in consequence of the death or bankruptcy of a member, who, but for his death or bankruptcy, would be entitled to receive notices of general meetings.

Sections 244,  
259.

#### TABLE B.

##### TABLE OF FEES to be paid to the REGISTRAR OF COMPANIES.

###### I.—By a company having a share capital.

	£	s.	d.
For registration of a company whose nominal share capital does not exceed 2,000 <i>l.</i> - - -	2	0	0
For registration of a company whose nominal share capital exceeds 2,000 <i>l.</i> , the following fees, regulated according to the amount of nominal share capital (that is to say);			
For every 1,000 <i>l.</i> of nominal share capital, or part of 1,000 <i>l.</i> , up to 5,000 <i>l.</i> - - -	1	0	0
For every 1,000 <i>l.</i> of nominal share capital, or part of 1,000 <i>l.</i> , after the first 5,000 <i>l.</i> , up to 100,000 <i>l.</i> - - -	0	5	0
For every 1,000 <i>l.</i> of nominal share capital, or part of 1,000 <i>l.</i> , after the first 100,000 <i>l.</i> - - -	0	1	0
For the registration of any increase of share capital made after the first registration of the company, the same fees per 1,000 <i>l.</i> , or part of a 1,000 <i>l.</i> , as would have been payable if the increased share capital had formed part of the original share capital at the time of registration.			
Provided that no company shall be liable to pay in respect of nominal share capital, on registration or afterwards, any greater amount of fees than 50 <i>l.</i> , taking into account in the cases of fees payable on an increase of share capital after registration the fees paid on registration.			
For registration of any existing company, except such companies as are by this Act exempted from payment of fees in respect of registration under			

this Act, the same fee as is charged for registering a new company.			
For registering any document by this Act required or authorised to be registered, other than the memorandum or the abstract required to be filed with the registrar by a receiver or manager or the statement required to be sent to the registrar by the liquidator in a winding up in England -	0	5	0
For making a record of any fact by this Act required or authorised to be recorded by the registrar -	0	5	0

## II.—By a company not having a share capital.

For registration of a company whose number of members, as stated in the articles, does not exceed 20 -	2	0	0
For registration of a company whose number of members, as stated in the articles, exceeds 20, but does not exceed 100 -	5	0	0
For registration of a company whose number of members, as stated in the articles, exceeds 100, but is not stated to be unlimited, the above fee of 5l., with an additional 5s. for every 50 members or less number than 50 members after the first 100.			
For registration of a company in which the number of members is stated in the articles to be unlimited -	20	0	0
For registration of any increase on the number of members made after the registration of the company in respect of every 50 members, or less than 50 members, of that increase -	0	5	0
Provided that no company shall be liable to pay on the whole a greater fee than 20l. in respect of its number of members, taking into account the fee paid on the first registration of the company.			
For registration of any existing company, except such companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new company.			
For registering any document by this Act required or authorised to be registered, other than the memorandum or the abstract required to be filed with the registrar by a receiver or manager or the statement required to be sent to the registrar by the liquidator in a winding up in England -	0	5	0
For making a record of any fact by this Act required or authorised to be recorded by the registrar -	0	5	0

## FORM C.

Section 2.

FORM OR STATEMENT to be published by BANKING and INSURANCE COMPANIES, and DEPOSIT, PROVIDENT, or BENEFIT SOCIETIES.

<sup>1</sup> The share capital of the company is divided into shares of each.

<sup>1</sup> If the company has no share capital the portion of the statement relating to capital and shares must be omitted.

## COMPANIES (CONSOLIDATION) ACT, 1908

The number of shares issued is  
 Calls to the amount of pounds per share have  
 been made, under which the sum of pounds has been  
 received.

The liabilities of the company on the first day of January  
 (or July) were—

Debts owing to sundry persons by the company.

On judgment, £  
 On specialty, £  
 On notes or bills, £  
 On simple contracts, £  
 On estimated liabilities, £

The assets of the company on that day were—

Government securities [stating them]  
 Bills of exchange and promissory notes, £  
 Cash at the bankers, £  
 Other securities, £

## SECOND SCHEDULE.

Section 2.

THE COMPANIES (CONSOLIDATION) ACT, 1908.  
 STATEMENT IN LIEU OF PROSPECTUS.

filed by

LIMITED.

pursuant to section eighty-two of the Companies (Consolidation)  
 Act, 1908.

Presented for filing by

THE COMPANIES (CONSOLIDATION) ACT, 1908,  
 LIMITED.  
 STATEMENT IN LIEU OF PROSPECTUS.

The nominal share capital of the  
 company . . . . .

Divided into . . . . . Shares of £ each.

Names, descriptions, and ad-  
 dresses of directors or proposed  
 directors.

Minimum subscription (if any)  
 fixed by the memorandum or  
 articles of association on which  
 the company may proceed to  
 allotment.

Number and amount of shares  
 and debentures agreed to be  
 issued as fully or partly paid-up  
 otherwise than in cash.  
 The consideration for the intended  
 issue of those shares and deben-  
 tures.

1. Shares of £ fully paid.
2. Shares upon which £ per share credited as paid.
3. debenture £
4. Consideration.

Names and addresses of (a) vendors of property purchased or acquired, or proposed to be (b) purchased or acquired by the company.

Amount (in cash, shares, or debentures) payable to each separate vendor.

Amount (if any) paid or payable (in cash or shares or debentures) for any such property, specifying amount (if any) paid or payable for goodwill.

Total purchase price £  
Cash . . . . £  
Shares . . . . £  
Debentures . . . . £

Goodwill

Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the company, or Rate of the commission . . .

Amount paid.  
.. payable.

Estimated amount of preliminary expenses . . . .

Rate per cent.

Amount paid or intended to be paid to any promoter.  
Consideration for the payment.

Name of promoter.  
Amount £  
Consideration :—

Dates of, and parties to, every material contract (other than contracts entered into in the ordinary course of the business intended to be carried on by the company or entered into more than two years before the filing of this statement).

Time and place at which the contracts or copies thereof may be inspected.

Names and addresses of the auditors of the company (if any).

Full particulars of the nature and extent of the interest of every director in the promotion of or in the property proposed to be acquired by the company, or, where the interest of such director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise, by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company.

(a) For definition of vendor, see Section 81 (2) of the Companies (Consolidation) Act, 1908.  
(b) See Section 81 (3) of the Companies (Consolidation) Act, 1908.

Whether the articles contain any provisions precluding holders of shares or debentures receiving and inspecting balance sheets or reports of the auditors or other reports.

Nature of the provisions.

(Signature of the persons above named as directors or proposed directors, or of their agents authorised in writing). —

### THIRD SCHEDULE.

#### FORM A.

Section 118.

- MEMORANDUM OF ASSOCIATION of a company limited by shares.

1st. The name of the company is "The Eastern Steam Packet Company, Limited."

2nd. The registered office of the company will be situate in England.

3rd. The objects for which the company is established are, "the conveyance of passengers and goods in ships or boats between such places as the company may from time to time determine, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th. The liability of the members is limited.

5th. The share capital of the company is two hundred thousand pounds divided into one thousand shares of two hundred pounds each.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

#### Names, Addresses, and Descriptions of Subscribers.

			Number of Shares taken by each Sub- scriber.
1.	John Jones of	in the county of merchant	200
2.	John Smith of	in the county of	25
3.	Thomas Green of	in the county of	30
4.	John Thompson of	in the county of	40
5.	Caleb White of	in the county of	15
6.	Andrew Brown of	in the county of	5
7.	Cæsar White of	in the county of	10
Total shares taken -			325

• Dated the      day of      19      .  
• Witness to the above signatures, •

A.B., No. 13 Hute Street, Clerkenwell, London.

# COMPANIES (CONSOLIDATION) ACT, 1908

## FORM B.

MEMORANDUM AND ARTICLES OF ASSOCIATION of a company limited by Guarantee, and not having a share capital.

### *Memorandum of Association.*

1st. The name of the company is "The Mutual London Marine Association, Limited."

2nd. The registered office of the company will be situate in England.

3rd. The objects for which the company is established are, "the mutual insurance of ships belonging to members of the company, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th. The liability of the members is limited.

5th. Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and the costs, charges, and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding ten pounds.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association.

### *Names, Addresses, and Descriptions of Subscribers.*

- |                     |                  |           |
|---------------------|------------------|-----------|
| 1. John Jones of    | in the county of | merchant. |
| 2. John Smith of    | in the county of |           |
| 3. Thomas Green of  | in the county of |           |
| 4. John Thompson of | in the county of |           |
| 5. Caleb White of   | in the county of |           |
| 6. Andrew Brown of  | in the county of |           |
| 7. Caesar White of  | in the county of |           |

Dated the            day of            19    .

Witness to the above signatures,

A.B., No. 13, Fute Street, Clerkenwell, London

### ARTICLES OF ASSOCIATION to accompany preceding MEMORANDUM OF ASSOCIATION.

#### *Number of Members.*

1. The company, for the purpose of registration, is declared to consist of five hundred members.

2. The directors hereinafter mentioned may, whenever the business of the association requires it, register an increase of members.

#### *Definition of Members.*

3. Every person shall be deemed to have agreed to become a member of the company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

#### *General Meetings.*

4. The first general meeting shall be held at such time, not being less than one month nor more than three months after

the incorporation of the company, and at such place, as the directors may determine.

5. A general meeting shall be held once in every year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the month following that in which the anniversary of the company's incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.

6. The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

7. The directors may, whenever they think fit, and shall, on a requisition made in writing by any five or more members, convene an extraordinary general meeting.

8. Any requisition made by the members must state the object of the meeting proposed to be called, and must be signed by the requisitionists and deposited at the registered office of the company.

9. On receipt of the requisition the directors shall forthwith proceed to convene a general meeting: if they do not proceed to cause a meeting to be held within twenty-one days from the date of the requisition being so deposited, the requisitionists or any other five members, may themselves convene a meeting.

#### *Proceedings at General Meetings.*

10. Seven days' notice at the least, specifying the place, the day, and the hour of meeting, and in case of special business the general nature of the business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting; but the non-receipt of such a notice by any member shall not invalidate the proceedings at any general meeting.

11. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of the consideration of the accounts, balance-sheets, and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

12. No business shall be transacted at any meeting except the declaration of a dividend, unless a quorum of members is present at the commencement of the business. The quorum shall be ascertained as follows (that is to say), if the members of the company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed thirty.

13. If within one hour from the time appointed for the meeting a quorum of members is not present, the meeting, if convened on the requisition of the members, shall be dissolved; in any other case it shall stand adjourned to the same day in the following



week at the same time and place; and if at such adjourned meeting a quorum of members is not present, it shall be adjourned sine die.

14. The chairman (if any) of the directors shall preside as chairman at every general meeting of the company.

15. If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be chairman of that meeting.

16. The chairman may, with the consent of the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

17. At any general meeting, unless a poll is demanded by at least three members, a declaration by the chairman that a resolution has been carried and an entry to that effect in the book of proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.

18. If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

### Votes of Members.

**19. Every member shall have one vote and no more.**

20. If any member is a lunatic or idiot he may vote by his committee, curator bonis, or other legal curator.

21. No member shall be entitled to vote at any meeting unless all moneys due from him to the company have been paid.

22. On a poll votes may be given either personally or by proxy. A proxy shall be appointed in writing under the hand of the appointor, or, if such appointor is a corporation, under its common seal.

**23. No person shall act as a proxy unless he is a member, or unless he is appointed to act at the meeting as proxy for a corporation.**

The instrument appointing him shall be deposited at the registered office of the company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

24. Any instrument appointing a proxy shall be in the following form :—

being a member of the \_\_\_\_\_ Company, Limited,  
in the county of \_\_\_\_\_  
hereby appoint \_\_\_\_\_ of \_\_\_\_\_  
as my proxy, to  
vote for me and on my behalf at the [ordi]nary or extraordinary,  
as the case may be, general meeting of the company to be  
held on the \_\_\_\_\_ day of \_\_\_\_\_, and at any  
adjournment thereof.

• "Signed" this                      day of

*Directors.*

25. The number of the directors, and the names of the first directors, shall be determined by the subscribers of the memorandum of association.

## COMPANIES (CONSOLIDATION) ACT, 1908

26. Until directors are appointed, the subscribers of the memorandum of association shall for all the purposes of the Companies (Consolidation) Act, 1908, be deemed to be directors.

*Powers of Directors.*

27. The business of the company shall be managed by the directors, who may exercise all such powers of the company as are not by the Companies (Consolidation) Act, 1908, or by any statutory modification thereof for the time being in force, or by these articles, required to be exercised by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

*Election of Directors.*

28. The directors shall be elected annually by the company in general meeting.

*Business of Company.*

[Here insert rules as to Mode in which Business of Insurance is to be conducted.]

*Audit.*

29. Auditors shall be appointed and their duties regulated in accordance with sections one hundred and thirteen and one hundred and fourteen of the Companies (Consolidation) Act, 1908, or any statutory modification thereof for the time being in force, and for this purpose the said sections shall have effect as if the word "members" were substituted for "shareholders," and as if "first general meeting" were substituted for "statutory meeting."

*Notices.*

30. A notice may be given by the company to any member either personally, or by sending it by post to him to his registered address.

31. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and unless the contrary is proved to have been effected at the time at which the letter would be delivered in the ordinary course of post.

*Names, Addresses, and Descriptions of Subscribers.*

" 1. John Jones of	in the county of	merchant.
" 2. John Smith of	in the county of	
" 3. Thomas Green of	in the county of	
" 4. John Thompson of	in the county of	
" 5. Caleb White of	in the county of	
" 6. Andrew Brown of	in the county of	
" 7. Caesar White of	in the county of	

Dated the            day of            19   

Witness to the above signatures,           

A.B., No. 13 Hute Street, Clerkenwell, London.

## • • FORM C.

MEMORANDUM AND ARTICLES OF ASSOCIATION of a company limited by guarantee, and having a share capital.

## • Memorandum of Association. •

1st. The name of the company is "The Highland Hotel Company, Limited."

2nd. The registered office of the company will be situate in Scotland.

3rd. The objects for which the company is established are "the facilitating travelling in the Highlands of Scotland, by providing hotels and conveyances by sea and by land for the accommodation of travellers, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th. The liability of the members is limited.

5th. Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company, contracted before he ceases to be a member, and the costs, charges, and expenses of winding up the same and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding twenty pounds.

6th. The share capital of the company shall consist of five hundred thousand pounds, divided into five thousand shares of one hundred pounds each.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses, and Description of Subscribers.			Number of Shares taken by each Sub- scriber.
1. John Jones of	in the county of		200
2. John Smith of	in the county of		25
3. Thomas Green of	in the county of		30
4. John Thomson of	in the county of		40
5. Caleb White of	in the county of		15
6. Andrew Brown of	in the county of		5
7. Caesar White of	in the county of		10
Total shares taken			325

Dated the      day of      19      .

Witness to the above signatures.

A.B., No. 13 Hute Street, Clerkenwell, London.

## COMPANIES (CONSOLIDATION) ACT, 1908

*Articles of Association to accompany preceding Memorandum of Association.*

1. The directors may, with the sanction of the company in general meeting, reduce the amount of shares in the company.
2. The directors may, with the sanction of the company in general meeting, cancel any shares belonging to the company.
3. All the articles of Table A of the Companies (Consolidation) Act, 1908, shall be deemed to be incorporated with these articles and to apply to the company.

## Names, Addresses, and Description of Subscribers.\*

- |                       |                  |           |
|-----------------------|------------------|-----------|
| " 1. John Jones of    | in the county of | merchant. |
| " 2. John Smith of    | in the county of |           |
| " 3. Thomas Green of  | in the county of |           |
| " 4. John Thompson of | in the county of |           |
| " 5. Caleb White of   | in the county of |           |
| " 6. Andrew Brown of  | in the county of |           |
| " 7. Caesar White of  | in the county of |           |

Dated the            day of            19

Witness to the above signatures,

A.B., No. 13 Hute Street, Clerkenwell, London.

## FORM D.

MEMORANDUM and ARTICLES of ASSOCIATION of an unlimited company having a share capital.

*Memorandum of Association.*

1st. The name of the company is "The Patent Stereotype Company."

2nd. The registered office of the company will be situate in England.

3rd. The object for which the company is established are "the working of a patent method of founding and casting stereotype plates, of which method John Smith, of London, is the sole patentee."

We, the several persons whose names are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

## Names, Addresses, and Description of Subscribers.

			Number of Shares taken by each Subscriber.
" 1. John Jones of	in the county of		3
" 2. John Smith of	in the county of		2
" 3. Thomas Green of	in the county of		1
" 4. John Thompson of	in the county of		2
" 5. Caleb White of	in the county of		2
" 6. Andrew Brown of	in the county of		1
" 7. Abel Brown of	in the county of		1

Total shares taken - 12

Dated the            day of            19

Witness to the above signatures,

A.B., No. 20 Bond Street, London.

2. All the articles of Table A of the Companies Act, 1908, shall be deemed to be incorporated with these articles, and to apply to the company.

" 1.	John Jones of	in the county of	merchant.
" 2.	John Smith of	in the county of	
" 3.	Thomas Green of	in the county of	
" 4.	John Thompson of	in the county of	
" 5.	Caleb White of	in the county of	
" 6.	Andrew Brown of	in the county of	
" 7.	Abel Brown of	in the county of	

A.B., No. 20 Bond Street, London.

**Section 26.**

1. Where there are shares of different kinds or amounts (e.g., Preference and Ordinary, or 10/- or 5/-), state the numbers and nominal values separately.
2. Where various amounts have been called or there are shares of different kinds state them separately.
3. Include what has been received on forfeited as well as on existing shares.

**COMPANIES (CONSOLIDATION) ACT, 1908**

Total amount (if any) of sums paid by way of commission in respect of shares or debentures or allowed by way of discount since date of last summary	£
Total amount (if any) paid on shares forfeited	£
Total amount of shares and stock for which share warrants are standing	£
Total amount of share warrants issued and surrendered respectively since date of last summary	£
Number of shares or amount of stock comprised in each share warrant	£
Total amount of debt due from the company in respect of all mortgages and charges which are required (or, in the case of a company registered in Scotland, which, if the company had been registered in England, would be required) to be registered with the registrar of companies, or which would require registration if created after the first day of July nineteen hundred and eight	£

STATEMENT in the form of a balance-sheet made up to the day of 19 containing the particulars of the capital, liabilities, and assets of the Company.  
The Return must be signed at the end by the manager or secretary of the company

**Presented for filing by**

**LIST OF PERSONS** holding shares in the \_\_\_\_\_ Company,  
Limited, on the \_\_\_\_\_ day of \_\_\_\_\_ 19, \_\_\_\_\_ and of persons  
who have held shares therein at any time since the date of  
the last return, showing their names and addresses and an  
account of the shares so held.

[illegible]

<sup>1</sup> State the aggregate number of shares forfeited (if any).

2 The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout so as to make one total to agree with that stated in the summary to have been taken up.

<sup>2</sup> When the shares are of different classes these columns may be subdivided so that the number of each class held or transferred may be shown separately.

<sup>4</sup> The date of registration of each transfer should be given as well as the number

NAMES AND ADDRESSES of the persons who are the Directors of  
the Limited on the day of 19

Names.	Addresses.

NOTE.—Banking companies must add a list of all their places of business.

(Signature) \_\_\_\_\_

(State whether manager or secretary) \_\_\_\_\_

#### FORM F.

##### LICENCE TO HOLD LANDS.

Section 20.

The Board of Trade hereby license the  
to hold the lands hereunder described (*insert description of lands*)  
[or to hold lands not exceeding in the whole acres].

The conditions of this licence are (*insert conditions, if any*).

#### FOURTH SCHEDULE.

Section 181.

##### PART I.

##### ORDERS PRONOUNCED IN VACATION IN SCOTLAND WHICH ARE TO BE FINAL.

Orders :—

As to time for proving claims.

s. 169.

As to the attendance of, and production of documents by,  
persons indebted to, or having property of, or information as  
to the affairs or property of, a company.

s. 174.

As to meetings for ascertaining wishes of creditors or  
contributories.

s. 119.

As to summoning meetings of creditors or contributories  
where a compromise is proposed.

s. 120.

As to the examination of witnesses in regard to the property  
or affairs of a company.

s. 227.

##### PART II.

##### ORDERS PRONOUNCED IN VACATION IN SCOTLAND WHICH ARE TO TAKE EFFECT UNTIL RECLAIMING NOTE DISPOSED OF.

Orders :—

Restraining or permitting commencement or continuance of  
legal proceedings.

ss. 149, 142, 144, 266, 270, 271.

Appointing an official liquidator to fill a vacancy, or appointing  
ing (except to fill a vacancy caused by the removal of a liquidator

ss. 149, 186, 202.

of shares transferred on each date. The particulars should be placed opposite the  
name of the transferor and not opposite that of the transferee, but the name of the  
transferee may be inserted in the "Remarks" column immediately opposite the  
particulars of each transfer.

- by the court) as liquidator for a winding up voluntarily or under supervision.
- s. 171. Sanctioning the exercise of any power by an official liquidator other than the power to appoint a law agent or to sell property.
- s. 164. Requiring the delivery of property or documents to the official liquidator.
- s. 176. As to the arrest and detention of an absconding contributory and his property.
- s. 151 (5). Limiting the powers of provisional official liquidators.
- s. 199. For continuance of winding up under supervision.

## FIFTH SCHEDULE.

## Section 281.

## PROVISIONS REFERRED TO IN SECTION 281 OF THE ACT.

- Provisions relating to—
- s. 17. The conclusiveness of certificates of incorporation ;
- s. 72. Restrictions on appointments or advertisement of directors ;
- s. 87. Restrictions on commencement of business ;
- s. 88. Returns as to allotments ;
- s. 65. Statutory meetings ;
- s. 26. The particulars as to directors and mortgage debt and the statement in the form of a balance-sheet in the annual summary ;
- ss. 112, 113. The appointment and remuneration, and powers and duties, of auditors ;
- s. 82. Obligations of companies where no prospectus is issued ;
- s. 93. Registration of mortgages and charges in England and Ireland ;
- s. 95. Filing of accounts of receiver and manager ;
- s. 187. Notice of liquidator in voluntary winding up of his appointment ;
- s. 188. Rights of creditors in a voluntary winding up ;
- s. 274. Requirements as to companies established outside the United Kingdom ; and
- s. 283. Annual report by the Board of Trade.

## SIXTH SCHEDULE.

## PART I.

## ENACTMENTS REPEALED.

## Section 286.

Session and Chapter.	Short Title of Act.	Extent of Repeal.
25 & 26 Vict. c. 89.	The Companies Act, 1862	The whole Act.
27 Vict. c. 19.	The Companies Seals Act, 1864.	The whole Act.
30 & 31 Vict. c. 131.	The Companies Act, 1867.	The whole Act.



Session and Chapter.	Short Title of Act.	Extent of Repeal.
32 & 33 Vict. c. 19.	The Stannaries Act, 1869.	Sections twenty-five, twenty-six, and thirty-four.
33 & 34 Vict. c. 104.	The Joint Stock Companies Arrangement Act, 1870.	The whole Act.
37 & 38 Vict. c. 94.	Conveyancing (Scotland) Act 1874.	Section fifty-six.
38 & 39 Vict. c. 77.	The Supreme Court of Judicature Act, 1875.	Section ten, so far as relates to the winding up of companies.
40 & 41 Vict. c. 26.	The Companies Act, 1877.	The whole Act.
40 & 41 Vict. c. 57.	The Supreme Court of Judicature (Ireland) Act, 1877.	Sub-section (1) of section twenty-eight, so far as relates to the winding up of companies.
42 & 43 Vict. c. 76.	The Companies Act, 1879.	The whole Act.
43 Vict. c. 19.	The Companies Act, 1880.	The whole Act.
46 & 47 Vict. c. 30.	The Companies (Colonial Registers) Act, 1883.	The whole Act.
49 Vict. c. 23.	The Companies Act, 1886.	The whole Act.
50 & 51 Vict. c. 43.	The Stannaries Act, 1887.	Sections nine and ten; section thirteen from "Upon the winding up" to the end of the section (being paragraph (2); and section thirty-one).
50 & 51 Vict. c. 47.	The Trustee Savings Banks Act, 1887.	Section three.
51 & 52 Vict. c. 62.	The Preferential Payments in Bankruptcy Act, 1888.	Sections one, two, and three, so far as they relate to companies.
52 & 53 Vict. c. 42.	The Revenue Act, 1889.	Section eighteen.
52 & 53 Vict. c. 60.	The Preferential Payments in Bankruptcy (Ireland) Act, 1889.	Section four, so far as relates to companies.
53 & 54 Vict. c. 62.	The Companies (Memorandum of Association) Act, 1890.	The whole Act.
53 & 54 Vict. c. 63.	The Companies (Winding up) Act, 1890.	The whole Act.

## COMPANIES (CONSOLIDATION) ACT, 1908

Session and Chapter.	Short Title of Act.	Extent of Repeal.
53 & 54 Vict. c. 64.	The Directors' Liability Act, 1890.	The whole Act.
56 & 57 Vict. c. 58.	The Companies (Winding up) Act, 1893.	The whole Act.
60 & 61 Vict. c. 19.	The Preferential Payments in Bankruptcy Amendment Act, 1897.	The whole Act.
61 & 62 Vict. c. 26.	The Companies Act, 1898.	The whole Act.
63 & 64 Vict. c. 48.	The Companies Act, 1900.	The whole Act.
7 Edw. c. 24.	7. The Limited Partnerships Act, 1907.	Sub section (4) of section six
7 Edw. c. 50.	7. The Companies Act, 1907.	The whole Act.
8 Edw. c. 12.	7. The Companies Act, 1908.	The whole Act.

## PART II.

Section 286. AN ACT TO REGULATE JOINT STOCK BANKS IN ENGLAND  
(7 & 8 VICT. c. 113), s. 47.

Existing companies to have the powers of suing and being sued.

Every company of more than six persons established on the sixth day of May one thousand eight hundred and forty-four, for the purpose of carrying on the trade or business of Bankers within the distance of sixty-five miles from London, and not within the provisions of the Act passed in the session of the seventh and eighth years of Queen Victoria, chapter one hundred and thirteen, intituled "An Act to regulate Joint Stock Banks in England," shall have the same powers and privileges of suing and being sued in the name of any one of the public officers of such co-partnership as the nominal plaintiff, petitioner, or defendant on behalf of such co-partnership; and all judgments, decrees, and orders made and obtained in any such suit may be enforced in like manner as is provided with respect to such companies carrying on the said trade or business at any place in England exceeding the distance of sixty-five miles from London under the provisions of the County Bankers Act, 1826, provided that such first-mentioned company shall make out and deliver from time to time to the commissioners of Inland Revenue the several accounts or returns required by the last-mentioned Act, and all the provisions of the last-recited Act as to such accounts or returns shall be taken to apply to the accounts or returns so made out and delivered by such first-mentioned companies as if they had been originally included in the provisions of the last-recited Act.

THE JOINT STOCK BANKING COMPANIES ACT, 1857,  
PART OF S. 12.

Notwithstanding anything contained in any Act passed in the session holden in the seventh and eighth years of Queen Victoria, chapter one hundred and thirteen, and intituled "An Act to regulate Joint Stock Banks in England," or in any other Act, it shall be lawful for any number of persons, not exceeding ten, to carry on in partnership the business of banking, in the same manner and upon the same conditions in all respects as any company of not more than six persons could before the passing of the Joint Stock Banking Companies Act, 1857, have carried on such business.

Power to form  
banking  
partnerships of  
ten persons.

## APPENDIX B

### Companies Act, 1913

[3 AND 4 GEO. V. C. 25]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) Where the articles of a company include the provisions which, by section one hundred and twenty-one of the Companies (Consolidation) Act, 1908, as amended by this Act, are required to be included therein in order to constitute the company a private company for the purposes of that Act, and default is made in complying with any of those provisions, the company shall cease to be entitled to the privileges and exemptions conferred on private companies under the provisions of that Act mentioned in the Schedule to this Act, and thereupon the said provisions shall apply to the company as if it were not a private company:

Amendment  
of the law  
relating to  
private com-  
panies.  
8 Edw. 7.  
c. 69.

Provided that the court, on being satisfied that the failure to comply with the conditions was accidental or due to inadvertence or to some other sufficient cause, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any other person interested, and on such terms and conditions as seem to the court just and expedient, order that the company be relieved from such consequences as aforesaid.

(2) In subsection (1) of the said section one hundred and twenty-one of the Companies (Consolidation) Act, 1908, for paragraph (b) the following paragraph shall be substituted:—

"(b) limits the number of its members (exclusive of persons who are in the employment of the company and of persons who having been formerly in the employment of the company, were while in such employment and have continued after the determination of such employment to be members of the company) to fifty; and"

Number of  
persons in  
private com-  
pany.

(3) Every private company shall send with the annual list of members and summary required to be sent under section twenty-six of the Companies (Consolidation) Act, 1908, a certificate signed by a director or the secretary that the company has not,

Certificate to  
be sent that  
conditions for  
a private com-  
pany continue.

since the date of the last return, or in the case of a first return since the date of the incorporation of the company, issued any invitation to the public to subscribe for any shares or debentures of the company; and, where the list of members discloses the fact that the number of members of the company exceeds fifty, also a certificate so signed that such excess consists wholly of persons who under section one hundred and twenty-one of that Act, as amended by this section, are to be excluded in reckoning the number of fifty.

Short title  
and con-  
struction.

2. This Act may be cited as the Companies Act, 1913, and shall be construed as one with the Companies (Consolidation) Act, 1908, and that Act and this Act may be cited together as the Companies Acts, 1908 and 1913.

## Schedule

PROVISIONS OF THE COMPANIES (CONSOLIDATION) ACT, 1908.

Subsection (3) of section twenty-six (which relates to the making of an annual return in the form of a balance sheet).

Section one hundred and fourteen (which relates to the right of preference shareholders and debenture holders to receive and inspect balance sheets and reports).

Section one hundred and fifteen (which relates to the minimum number of members with which a company may continue to carry on business).

Paragraph (iv) of section one hundred and twenty-nine (which makes a reduction of the number of members of a company below the minimum a ground for the winding up of the company).

# APPENDIX C.

## Companies (Clause) Acts, 1845

ANNO OCTAVO VICTORIÆ REGINÆ

An Act for consolidating in One Act certain Provisions usually inserted in Acts with respect to the Constitution of Companies incorporated for carrying on Undertakings of a public Nature. [8th May, 1845.]

WHEREAS it is expedient to comprise in One general Act sundry Provisions relating to the Constitution and Management of Joint Stock Companies, usually introduced into Acts of Parliament authorizing the Execution of Undertakings of a public Nature by such Companies, and that as well for the Purpose of avoiding the Necessity of repeating such Provisions in each of the several Acts relating to such Undertakings as for ensuring greater Uniformity in the Provisions themselves: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That this Act shall apply to every Joint Stock Company which shall by any Act which shall hereafter be passed be incorporated for the Purpose of carrying on any Undertaking, and this Act shall be incorporated with such Act; and all the Clauses and Provisions of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the Company which shall be incorporated by such Act, and to the Undertaking for carrying on which such Company shall be incorporated, so far as the same shall be applicable thereto respectively; and such Clauses and Provisions, as well as the Clauses and Provisions of every other Act which shall be incorporated with such Act, shall, save as aforesaid, form Part of such Act, and be construed together therewith as forming One Act.

Act to apply to all Companies incorporated by Acts hereafter to be passed.

II. And with respect to the Construction of this Act, and of other Acts to be incorporated therewith, be it enacted as follows:

The Expression "the special Act" used in this Act shall be construed to mean any Act which shall be hereafter passed incorporating a Joint Stock Company for the Purpose of carrying on any Undertaking, and with which this Act shall be so incorporated as aforesaid; and the Word "prescribed" used in this Act, in reference to any Matter herein stated, shall be construed to refer to such Matter as the same shall be prescribed or provided for in the special Act; and the Sentence in which such Word shall occur shall be construed as if instead of the Word "prescribed" the Expression "prescribed for that Purpose in the special Act" had been used; and the Expression "the Undertaking" shall mean the Undertaking or Works, of whatever Nature, which shall by the special Act be authorized to be executed.

Interpretations in this Act:  
"the special Act:"

"prescribed:"

"the Undertaking."

III. The following Words and Expressions both in this and the special Act shall have the several Meanings hereby assigned

Interpretations in this and the special Act.

Number :

Gender :

" Lands : "

" Lease : "

" Month : "

" Superior Courts : "

" Oath : "

County : "

" Justice : "

" Two Justices : "

" The Company : "

" Directors : "

" Shareholder : "

" Secretary : "

Short Title of the Act.

Form in which Portions of this Act may be incorporated with other Acts.

to them, unless there be something in the Subject or the Context repugnant to such Construction ; (that is to say),

Words importing the Singular Number only shall include the Plural Number ; and Words importing the Plural Number only shall include the Singular Number :

Words importing the Masculine Gender only shall include Females :

The Word " Lands " shall extend to Messuages, Lands, Tenements, and Hereditaments of any Tenure :

The Word " Lease " shall include an Agreement for a Lease :

The Word " Month " shall mean Calendar Month :

The Expression " Superior Courts " shall mean Her Majesty's Superior Courts of Record at *Westminster* or *Dublin*, as the Case may require :

The Word " Oath " shall include Affirmation in the Case of Quakers, or other Declaration lawfully substituted for an Oath in the Case of any other Persons exempted by Law from the Necessity of taking an Oath :

The Word " County " shall include any Riding or other like Division of a County, and shall also include County of a City or County of a Town :

The Word " Justice " shall mean Justice of the Peace acting for the County, City, Borough, Liberty, Cinque Port, or other Place where the Matter requiring the Cognizance of any such Justice shall arise, and who shall not be interested in the Matter ; and where any Matter shall be authorized or required to be done by Two Justices the Expression " Two Justices " shall be understood to mean Two Justices assembled and acting together in Petty Sessions :

The Expression " the Company " shall mean the Company constituted by the special Act :

The Expression " the Directors " shall mean the Directors of the Company, and shall include all Persons having the Direction of the Undertaking, whether under the Name of Directors, Managers, Committee of Management, or under any other Name :

The word " Shareholder " shall mean Shareholder, Proprietor, or Member of the Company ; and in referring to any such Shareholder, Expressions properly applicable to a Person shall be held to apply to a Corporation : And.

The Expression " the Secretary " shall mean the Secretary of the Company, and shall include the Word " Clerk. "

IV. And be it enacted, That in citing this Act in other Acts of Parliament and in legal Instruments it shall be sufficient to use the Expression " The Companies Clauses Consolidation Act, 1845. "

V. And whereas it may be convenient in some Cases to incorporate with Acts of Parliament hereafter to be passed some Portion only of the Provisions of this Act ; be it therefore enacted, That for the Purpose of making any such Incorporation it shall be sufficient in any such Act to enact that the Clauses and Provisions of this Act, with respect to the Matter so proposed to be incorporated (describing such Matter as it is described in this Act in the Words introductory to the Enactment with respect to such Matter), shall be incorporated with such Act ; and thereupon all the Clauses and Provisions of this Act with respect to the Matter so incorporated shall, save so far as they shall be expressly varied or excepted by such Act form Part of

such Act, and such Act shall be construed as if the Substance of such Clauses and Provisions were set forth therein with reference to the Matter to which such Act shall relate.

Distribution  
of Capital.

And with respect to the Distribution of the Capital of the Company into Shares, be it enacted as follows :

VI. The Capital of the Company shall be divided into Shares of the prescribed Number and Amount ; and such Shares shall be numbered in arithmetical Progression, beginning with Number One ; and every such Share shall be distinguished by its appropriate Number.

Capital to be  
divided into  
Shares.

VII. All Shares in the Undertaking shall be Personal Estate, and transmissible as such, and shall not be of the Nature of Real Estate.

Shares to be  
Personal  
Estate.

VIII. Every Person who shall have subscribed the prescribed Sum or upwards to the Capital of the Company, or shall otherwise have become entitled to a Share in the Company, and whose Name shall have been entered on the Register of Shareholders hereinafter mentioned, shall be deemed a Shareholder of the Company.

Share-  
holders.

IX. The Company shall keep a Book, to be called the " Register of Shareholders," and in such Book shall be fairly and distinctly entered, from Time to Time, the Names of the several Corporations, and the Names and Additions of the several Persons entitled to Shares in the Company, together with the Number of Shares to which such Shareholders shall be respectively entitled, distinguishing each Share by its Number, and the Amount of the Subscriptions paid on such Shares, and the Surnames or Corporate Names of the said Shareholders shall be placed in alphabetical Order ; and such Book shall be authenticated by the Common Seal of the Company being affixed thereto ; and such Authentication shall take place at the First Ordinary Meeting, or at the next subsequent Meeting of the Company, and so from Time to Time at each Ordinary Meeting of the Company.

Registry  
of Share-  
holders.

X. In addition to the said Register of Shareholders, the Company shall provide a Book, to be called the " Shareholders Address Book," in which the Secretary shall from Time to Time enter in alphabetical Order the Corporate Names and Places of Business of the several Shareholders of the Company, being Corporations, and the Surnames of the several other Shareholders with their respective Christian Names, Places of Abode, and Descriptions, so far as the same shall be known to the Company ; and every Shareholder, or if such Shareholder be a Corporation the Clerk or Agent of such Corporation, may at all convenient Times peruse such Book *gratis*, and may require a Copy thereof or of any Part thereof ; and for every Hundred Words so required to be copied, the Company may demand a Sum not exceeding Sixpence.

Addresses  
of Share-  
holders.

XI. On Demand of the Holder of any Share the Company shall cause a Certificate of the Proprietorship of such Share to be delivered to such Shareholder ; and such Certificate shall have the Common Seal of the Company affixed thereto ; and such Certificate shall specify the Share in the Undertaking to which such Shareholder is entitled ; and the same may be according to the Form in the Schedule (A.) to this Act annexed, or to the like Effect ; and for such Certificate the Company may demand any Sum not exceeding the prescribed Amount,

Certificates  
of Shares to  
be issued to  
the Share-  
holders.

*Distribution  
of Capital.*

*Certificate  
to be Evi-  
dence.*

*Certificate  
to be re-  
newed when  
destroyed.*

*Transfer of  
Shares.*

*Transfer of  
Shares to be  
by Deed  
duly stamped.*

*Transfers of  
Shares to be  
registered,  
&c.*

*Transfer not  
to be made  
until Calls  
paid.*

or if no Amount be prescribed, then a Sum not exceeding Two Shillings and Sixpence.

XII. The said Certificate shall be admitted in all Courts as *prima facie* Evidence of the Title of such Shareholder, his Executors, Administrators, Successors, or Assigns, to the Share therein specified; nevertheless the Want of such Certificate shall not prevent the Holder of any Share from disposing thereof.

XIII. If any such Certificate be worn out or damaged, then, upon the same being produced at some Meeting of the Directors, such Directors may order the same to be cancelled, and thereupon another similar Certificate shall be given to the Party in whom the Property of such Certificate, and of the Share therein mentioned, shall be at the Time vested; or if such Certificate be lost or destroyed, then, upon Proof thereof to the Satisfaction of the Directors, a similar Certificate shall be given to the Party entitled to the Certificate so lost or destroyed; and in either Case a due Entry of the substituted Certificate shall be made by the Secretary in the Register of Shareholders; and for every such Certificate so given or exchanged the Company may demand any Sum not exceeding the prescribed Amount, or if no Amount be prescribed, then a Sum not exceeding Two Shillings and Sixpence.

And with respect to the Transfer or Transmission of Shares, be it enacted as follows:

XIV. Subject to the Regulations herein or in the special Act contained, every Shareholder may sell and transfer all or any of his Shares in the Undertaking, or all or any Part of his Interest in the Capital Stock of the Company, in case such Shares shall, under the Provision hereinafter contained, be consolidated into Capital Stock; and every such Transfer shall be by Deed duly stamped, in which the Consideration shall be truly stated; and such Deed may be according to the Form in the Schedule (B.) to this Act annexed, or to the like Effect.

XV. The said Deed of Transfer (when duly executed) shall be delivered to the Secretary, and be kept by him; and the Secretary shall enter a Memorial thereof in a Book to be called the "Register of Transfers," and shall endorse such Entry on the Deed of Transfer, and shall, on Demand, deliver a new Certificate to the Purchaser; and for every such Entry, together with such Endorsement and Certificate, the Company may demand any Sum not exceeding the prescribed Amount, or if no Amount be prescribed, then a Sum not exceeding Two Shillings and Sixpence; and on the Request of the Purchaser of any Share an Endorsement of such Transfer shall be made on the Certificate of such Share, instead of a new Certificate being granted; and such Endorsement, being signed by the Secretary, shall be considered in every respect the same as a new Certificate; and until such Transfer has been so delivered to the Secretary as aforesaid the Vendor of the Share shall continue liable to the Company for any Calls that may be made upon such Share, and the Purchaser of the Share shall not be entitled to receive any Share of the Profits of the Undertaking, or to vote in respect of such Share.

XVI. No Shareholder shall be entitled to transfer any Share, after any Call shall have been made in respect thereof, until he shall have paid such Call, nor until he shall have paid all Calls for the Time being due on every Share held by him.



XVII. It shall be lawful for the Directors to close the Register of Transfers for the prescribed Period, or if no Period be prescribed, then for a period not exceeding Fourteen Days previous to each Ordinary Meeting, and they may fix a Day for the closing of the same, of which Seven Days Notice shall be given by Advertisement in some Newspaper as after mentioned; and any Transfer made during the Time when the Transfer Books are so closed shall, as between the Company and the Party claiming under the same, but not otherwise, be considered as made subsequently to such Ordinary Meeting.

*Transfer of  
Shares.  
Closing of  
Transfer  
Books.*

XVIII. If the Interest in any Share have become transmitted in consequence of the Death or Bankruptcy or Insolvency of any Shareholder, or in consequence of the Marriage of a Female Shareholder, or by any other lawful Means than by a Transfer according to the Provisions of this or the special Act, such Transmission shall be authenticated by a Declaration in Writing as hereinafter mentioned, or in such other Manner as the Directors shall require; and every such Declaration shall state the Manner in which and the Party to whom such Share shall have been so transmitted, and shall be made and signed by some credible Person before a Justice, or before a Master or Master Extraordinary of the High Court of Chancery; and such Declaration shall be left with the Secretary, and thereupon he shall enter the Name of the Person entitled under such Transmission in the Register of Shareholders; and for every such Entry the Company may demand any Sum not exceeding the prescribed Amount, and where no Amount shall be prescribed then not exceeding Five Shillings; and until such Transmission has been so authenticated no Person claiming by virtue of any such Transmission shall be entitled to receive any Share of the Profits of the Undertaking, nor to vote in respect of any such Share as the Holder thereof.

*Transmission  
of Shares by  
other Means  
than Transfer  
to be authen-  
ticated by a  
Declaration.*

XIX. If such Transmission be by virtue of the Marriage of a Female Shareholder, the said Declaration shall contain a Copy of the Register of such Marriage, or other Particulars of the Celebration thereof, and shall declare the Identity of the Wife with the Holder of such Share; and if such Transmission have taken place by virtue of any testamentary Instrument, or by Intestacy, the Probate of the Will or the Letters of Administration, or an official Extract therefrom, shall, together with such Declaration, be produced to the Secretary; and upon such Production in either of the Cases aforesaid the Secretary shall make an Entry of the Declaration in the said Register of Transfers.

*Proof of  
Transmis-  
sion by Mar-  
riage, Will,  
&c.*

XX. The Company shall not be bound to see to the Execution of any Trust, whether express, implied, or constructive, to which any of the said Shares may be subject; and the Receipt of the Party in whose Name any such Share shall stand in the Books of the Company, or if it stands in the Names of more Parties than One, the Receipt of One of the Parties named in the Register of Shareholders, shall from Time to Time be a sufficient Discharge to the Company for any Dividend or other Sum of Money payable in respect of such Share, notwithstanding any Trusts to which such Share may then be subject, and whether or not the Company have had Notice of such Trusts; and the Company shall not be bound to see to the Application of the Money paid upon such Receipt.

*Company  
not bound  
to regard  
Trusts.*

*Payment of  
Calls.*

And with respect to the Payment of Subscriptions and the Means of enforcing the Payment of Calls, be it enacted, as follows :

Subscriptions to be paid when called for.

XXI. The several Persons who have subscribed any Money towards the Undertaking, or their legal Representatives, respectively, shall pay the Sums respectively so subscribed, or such Portions thereof as shall from Time to Time be called for by the Company at such Times and Places as shall be appointed by the Company ; and with respect to the Provisions herein or in the special Act contained for enforcing the Payment of Calls, the Word "Shareholder" shall extend to and include the legal personal Representatives of such Shareholder.

Power to make Calls.

XXII. It shall be lawful for the Company from Time to Time to make such Calls of Money upon the respective Shareholders, in respect of the Amount of Capital respectively subscribed or owing by them, as they shall think fit, provided that Twenty-one Days Notice at the least be given of each Call, and that no Call exceed the prescribed Amount, if any, and that successive Calls be not made at less than the prescribed Interval, if any, and that the aggregate Amount of Calls made in any One Year do not exceed the prescribed Amount, if any ; and every Shareholder shall be liable to pay the Amount of the Calls so made, in respect of the Shares held by him, to the Persons and at the Times and Places from Time to Time appointed by the Company.

Interest to be paid on Calls unpaid.

XXIII. If, before or on the Day appointed for Payment, any Shareholder do not pay the Amount of any Call to which he is liable, then such Shareholder shall be liable to pay Interest for the same at the Rate allowed by Law from the Day appointed for the Payment thereof to the Time of the actual Payment.

Power to allow Interest on Payment of Subscriptions before Call.

XXIV. It shall be lawful for the Company, if they think fit, to receive from any of the Shareholders willing to advance the same all or any Part of the Monies due upon their respective Shares beyond the Sums actually called for ; and upon the Principal Monies so paid in advance, or so much thereof as from Time to Time shall exceed the Amount of the Calls then made upon the Shares in respect of which such Advance shall be made, the Company may pay Interest at such Rate, not exceeding the legal Rate of Interest for the Time being, as the Shareholder paying such Sum in advance and the Company shall agree upon.

Enforcement of Calls by Action.

XXV. If at the Time appointed by the Company for the Payment of any Call any Shareholder fail to pay the Amount of such Call, it shall be lawful for the Company to sue such Shareholder for the Amount thereof, in any Court of Law or Equity having competent Jurisdiction, and to recover the same, with lawful Interest, from the Day on which such Call was payable.

Declaration in Action for Calls.

XXVI. In any Action or Suit to be brought by the Company against any Shareholder to recover any Money due for any Call it shall not be necessary to set forth the special Matter, but it shall be sufficient for the Company to declare that the Defendant is the Holder of One Share or more in the Company (stating the Number of Shares), and is indebted to the Company in the Sum of Money to which the Calls in arrear shall amount in respect of One Call or more upon One Share or more (stating the Number and Amount of each of such Calls), whereby an Action hath accrued to the Company by virtue of this and the special Act.

XXVII. On the Trial or Hearing of such Action or Suit it shall be sufficient to prove that the Defendant at the Time of making such Call was a Holder of One Share or more in the Undertaking, and that such Call was in fact made, and such Notice thereof given as is directed by this or the special Act; and it shall not be necessary to prove the Appointment of the Directors who made such Call, nor any other Matter whatsoever; and thereupon the Company shall be entitled to recover what shall be due upon such Call, with Interest thereon, unless it shall appear either that any such Call exceeds the prescribed Amount, or that due Notice of such Call was not given, or that the prescribed Interval between Two successive Calls had not elapsed, or that Calls amounting to more than the Sum prescribed for the total Amount of Calls in One Year had been made within that Period.

*Payment  
of Calls.*  
Matter to be  
proved in  
Action for  
Calls.

XXVIII. The Production of the Register of Shareholders shall be *prima facie* Evidence of such Defendant being a Shareholder, and of the Number and Amount of his Shares.

Proof of Proprietorship.

And with respect to the Forfeiture of Shares for Nonpayment of Calls, be it enacted as follows:

*Nonpayment  
of Calls.*

XXIX. If any Shareholder fail to pay any Call payable by him, together with the Interest, if any, that shall have accrued thereon, the Directors, at any Time after the Expiration of Two Months from the Day appointed for Payment of such Call, may declare the Share in respect of which such Call was payable forfeited, and that whether the Company have sued for the Amount of such Call or not.

Forfeiture of Shares for Nonpayment of calls.

XXX. Before declaring any Share forfeited the Directors shall cause Notice of such Intention to be left at or transmitted by the Post to the usual or last Place of Abode of the Person appearing by the Register of Shareholders to be the Proprietor of such Share; and if the Holder of any such Share be abroad, or if his usual or last Place of Abode be not known to the Directors, by reason of its being imperfectly described in the Shareholders Address Book, or otherwise, or if the Interest in any such Share shall be known by the Directors to have become transmitted otherwise than by Transfer, as hereinbefore mentioned, but a Declaration of such Transmission shall not have been registered as aforesaid, and so the Address of the Parties to whom the same may have been transmitted, or may for the Time being belong, shall not be known to the Directors, the Directors shall give public Notice of such Intention in the *London or Dublin Gazette*, according as the Company's principal Place of Business shall be situate in *England or Ireland*, and also in some Newspaper, as after mentioned; and the several Notices aforesaid shall be given Twenty-one Days at least before the Directors shall make such Declaration of Forfeiture.

Notice of Forfeiture to be given before Declaration thereof.

XXXI. The said Declaration of Forfeiture shall not take effect so as to authorize the Sale or other Disposition of any Share until such Declaration have been confirmed at some General Meeting of the Company to be held after the Expiration of Two Months at the least from the Day on which such Notice of Intention to make such Declaration of Forfeiture shall have been given; and it shall be lawful for the Company to confirm such Forfeiture at any such Meeting, and by an Order at such Meeting, or at any subsequent General Meeting, to direct the Share so forfeited to be sold or otherwise disposed of.

Forfeiture to be confirmed by a General Meeting.

*Nonpayment  
of Calls.  
Sale of forfeited  
Shares.*

XXXII. After such Confirmation as aforesaid it shall be lawful for the Directors to sell the forfeited Share, either by public Auction or private Contract, and if there be more than One such forfeited Share, then either separately or together, as to them shall seem fit; and any Shareholder may purchase any forfeited Share so sold.

*Evidence as  
to Forfeiture  
of Shares.*

XXXIII. A Declaration in Writing, by some credible Person not interested in the Matter, made before any Justice, or before any Master or Master Extraordinary of the High Court of Chancery, that the Call in respect of a Share was made, and Notice thereof given, and that Default in Payment of the Call was made, and that the Forfeiture of the Share was declared and confirmed in manner hereinbefore required, shall be sufficient Evidence of the Facts therein stated; and such Declaration, and the Receipt of the Treasurer of the Company for the Price of such Share, shall constitute a good Title to such Share; and a Certificate of Proprietorship shall be delivered to such Purchaser, and thereupon he shall be deemed the Holder of such Share, discharged from all Calls due prior to such Purchase; and he shall not be bound to see to the Application of the Purchase Money, nor shall his Title to such Share be affected by any Irregularity in the Proceedings in reference to such Sale.

*No more  
Shares to be  
sold than suf-  
ficient for  
Payment of  
Calls.*

XXXIV. The Company shall not sell or transfer more of the Shares of any such Defaulter than will be sufficient, as nearly as can be ascertained at the Time of such Sale, to pay the Arrears then due from such Defaulter on account of any Calls, together with Interest, and the Expenses attending such Sale and Declaration of Forfeiture; and if the Money produced by the Sale of any such forfeited Shares be more than sufficient to pay all Arrears of Calls and Interest thereon due at the Time of such Sale, and the Expenses attending the Declaration of Forfeiture and Sale thereof, the Surplus shall, on Demand, be paid to the Defaulter.

*On Payment  
of Calls be-  
fore Sale the  
forfeited  
Share  
revert.*

XXXV. If Payment of such Arrears of Calls and Interest and Expenses be made before any Share so forfeited and vested in the Company shall have been sold, such Share shall revert to the Party to whom the same belonged before such Forfeiture, in such Manner as if such Calls had been duly paid.

*Remedies  
against  
Shareholders.*

And with respect to the Remedies of Creditors of the Company against the Shareholders, be it enacted as follows:

*Execution  
against  
Shareholders  
to the Ex-  
tent of their  
Shares in  
Capital not  
paid up.*

XXXVI. If any Execution, either at Law or in Equity, shall have been issued against the Property or Effects of the Company, and if there cannot be found sufficient whereon to levy such Execution, then such Execution may be issued against any of the Shareholders to the Extent of their Share respectively in the Capital of the Company not then paid up: Provided always, that no such Execution shall issue against any Shareholder except upon an Order of the Court in which the Action, Suit, or other Proceeding shall have been brought or instituted, made upon Motion in open Court after sufficient Notice in Writing to the Persons sought to be charged; and upon such Motion such Court may order Execution to issue accordingly; and for the Purpose of ascertaining the Names of the Shareholders, and the Amount of Capital remaining to be paid upon their respective Shares, it shall be lawful for any Person entitled to any such Execution, at all reasonable Times, to inspect the Register of Shareholders without Fee.

XXXVII. If by means of any such Execution any Shareholder shall have paid any Sum of Money beyond the Amount then due from him in respect of Calls, he shall forthwith be reimbursed such additional Sum by the Directors out of the Funds of the Company.

*Remedies  
against  
Shareholders.  
Reimburse-  
ment of such  
Shareholders.*

And with respect to the borrowing of Money by the Company on Mortgage or Bond, be it enacted as follows :

*Power  
to borrow  
Money.*

XXXVIII. If the Company be authorized by the special Act to borrow Money on Mortgage or Bond, it shall be lawful for them, subject to the Restrictions contained in the special Act, to borrow on Mortgage or Bond such Sums of Money as shall from Time to Time, by an Order of a General Meeting of the Company, be authorized to be borrowed, not exceeding in the whole the Sum prescribed by the special Act, and for securing the Repayment of the Money so borrowed, with Interest, to mortgage the Undertaking, and the future Calls on the Shareholders, or to give Bonds in manner hereinafter mentioned.

*Power to bor-  
row Money.*

XXXIX. If, after having borrowed any Part of the Money so authorized to be borrowed on Mortgage or Bond, the Company pay off the same, it shall be lawful for them again to borrow the Amount so paid off, and so from Time to Time, but such Power of re-borrowing shall not be exercised without the Authority of a General Meeting of the Company, unless the Money be so re-borrowed in order to pay off any existing Mortgage or Bond.

*Power to  
re-borrow.*

XL. Where by the special Act the Company shall be restricted from borrowing any Money on Mortgage or Bond until a definite Portion of their Capital shall be subscribed or paid up, or where by this or the special Act the Authority of a General Meeting is required for such borrowing, the Certificate of a Justice that such definite Portion of the Capital has been subscribed or paid up, and a Copy of the Order of a General Meeting of the Company authorizing the borrowing of any Money, certified by One of the Directors or by the Secretary to be a true Copy, shall be sufficient Evidence of the Fact of the Capital required to be subscribed or paid up having been so subscribed or paid up, and of the Order for borrowing Money having been made; and upon Production to any Justice of the Books of the Company, and of such other Evidence as he shall think sufficient, such Justice shall grant the Certificate aforesaid.

*Evidence of  
Authority for  
borrowing.*

XLI. Every Mortgage and Bond for securing Money borrowed by the Company shall be by Deed under the Common Seal of the Company, duly stamped, and wherein the Consideration shall be truly stated; and every such Mortgage Deed or Bond may be according to the Form in the Schedule (C.) or (D.) to this Act annexed, or to the like Effect.

*Mortgages  
and Bonds to  
be stamped.*

XLII. The respective Mortgages shall be entitled one with another to their respective Proportions of the Tolls, Sums, and Premises comprised in such Mortgages, and of the future Calls payable by the Shareholders, if comprised therein, according to the respective Sums in such Mortgages mentioned to be advanced by such Mortgages respectively, and to be repaid the Sums so advanced, with Interest, without any Preference one above another by reason of Priority of the Date of any such Mortgage, or of the Meeting at which the same was authorized.

*Rights of  
Mortgages.*

XLIII. No such Mortgage (although it should comprise future Calls on the Shareholders) shall, unless expressly so provided, preclude the Company from receiving and applying to the Purposes of the Company any Calls to be made by the Company.

*Application  
of Calls, not-  
withstanding  
Mortgage.*

*Power  
to borrow  
Money.  
Rights of  
Obligees.*

XLIV. The respective Obligees in such Bonds shall, proportionally according to the Amount of the Monies secured thereby, be entitled to be paid, out of the Tolls or other Property or Effects of the Company, the respective Sums in such Bonds mentioned, and thereby intended to be secured, without any Preference one above another by reason of Priority of Date of any such Bond, or of the Meeting at which the same was authorized, or otherwise howsoever.

*Register of  
Mortgages  
and Bonds.*

XLV. A Register of Mortgages and Bonds shall be kept by the Secretary, and within Fourteen Days after the date of any such Mortgage or Bond an Entry or Memorial, specifying the Number and Date of such Mortgage or Bond, and the Sums secured thereby, and the Names of the Parties thereto, with their proper Additions, shall be made in such Register; and such Register may be perused at all reasonable Times by any of the Shareholders, or by the Mortgagee or Bond Creditor of the Company, or by any Person interested in any such Mortgage or Bond, without Fee or Reward.

*Transfers of  
Mortgages  
and Bonds  
to be stamped.*

XLVI. Any Party entitled to any such Mortgage or Bond may from Time to Time transfer his Right and Interest therein to any other Person; and every such Transfer shall be by Deed duly stamped, wherein the Consideration shall be truly stated; and every such Transfer may be according to the Form in the Schedule (E.) to this Act annexed, or to the like Effect.

*Transfers of  
Mortgages  
and Bonds  
to be regis-  
tered.*

XLVII. Within Thirty Days after the Date of every such Transfer, if executed within the United Kingdom, or otherwise within Thirty Days after the Arrival thereof in the United Kingdom, it shall be produced to the Secretary, and thereupon the Secretary shall cause an Entry or Memorial thereof to be made in the same Manner as in the Case of the original Mortgage; and after such Entry every such Transfer shall entitle the Transferee to the full Benefit of the original Mortgage or Bond in all respects; and no Party, having made such Transfer, shall have Power to make void, release, or discharge the Mortgage or Bond so transferred, or any Money thereby secured; and for such Entry the Company may demand a Sum not exceeding the prescribed Sum, or, where no Sum shall be prescribed, the Sum of Two Shillings and Sixpence; and until such Entry the Company shall not be in any Manner responsible to the Transferee in respect of such Mortgage.

*Payment of  
Interest on  
Monies bor-  
rowed.*

XLVIII. The Interest of the Money borrowed upon any such Mortgage or Bond shall be paid at the Periods appointed in such Mortgage or Bond, and if no Period be appointed, half-yearly, to the several Parties entitled thereto, and in preference to any Dividends payable to the Shareholders of the Company.

*Transfers of  
Interest to be  
stamped.  
Repayment  
of Money  
borrowed at  
a Time fixed.*

XLIX. The Interest on any such Mortgage or Bond shall not be transferable, except by Deed duly stamped.

L. The Company may, if they think proper, fix a Period for the Repayment of the Principal Money so borrowed, with the Interest thereof, and in such Case the Company shall cause such Period to be inserted in the Mortgage Deed or Bond; and upon the Expiration of such Period the Principal Sum, together with the Arrears of Interest thereon, shall, on Demand, be paid to the Party entitled to such Mortgage or Bond; and if no other Place of Payment be inserted in such Mortgage Deed or Bond such Principal and Interest shall be payable at the principal Office or Place of Business of the Company.

LI. If no Time be fixed in the Mortgage Deed or Bond for the Repayment of the Money so borrowed, the Party entitled to the Mortgage or Bond may, at the Expiration or at any Time after the Expiration of Twelve Months from the Date of such Mortgage or Bond, demand Payment of the Principal Money thereby secured, with all Arrears of Interest, upon giving Six Months previous Notice for that Purpose; and in the like Case the Company may at any Time pay off the Money borrowed, on giving the like Notice; and every such Notice shall be in Writing or Print, or both, and if given by a Mortgagee or Bond Creditor shall be delivered to the Secretary or left at the principal Office of the Company, and if given by the Company shall be given either personally to such Mortgagee or Bond Creditor or left at his Residence, or if such mortgagee or Bond Creditor be unknown to the Directors, or cannot be found after diligent Inquiry, such Notice shall be given by Advertisement in the *London or Dublin Gazette*, according as the principal Office of the Company shall be in *England or Ireland*, and in some Newspaper as after mentioned.

Power  
to borrow  
Money.  
Repayment  
of Money  
borrowed  
where no  
Time fixed.

LII. If the Company shall have given Notice of their Intention to pay off any such Mortgage or Bond at a Time when the same may lawfully be paid off by them, then at the Expiration of such Notice all further Interest shall cease to be payable on such Mortgage or Bond, unless, on Demand of Payment made pursuant to such Notice, or at any Time thereafter, the Company shall fail to pay the Principal and Interest due at the Expiration of such Notice on such Mortgage or Bond.

Interest to  
cease on Ex-  
piration of  
Notice to pay  
off Mortgage  
or Bond.

LIII. Where by the special Act the Mortgagees of the Company shall be empowered to enforce the Payment of the Arrears of interest, or the Arrears of Principal and Interest, due on such Mortgages, by the Appointment of a Receiver, then, if within Thirty Days after the Interest accruing upon any such Mortgage has become payable, and, after Demand thereof in Writing, the same be not paid, the Mortgagee may, without Prejudice to his Right to sue for the Interest so in arrear in any of the Superior Courts of Law or Equity, require the appointment of a Receiver, by an Application to be made as hereinafter provided; and if within Six months after the Principal Money owing upon any such Mortgage has become payable, and after Demand thereof in Writing, the same be not paid, the Mortgagee, without Prejudice to his Right to sue for such Principal Money, together with all Arrears of Interest, in any of the Superior Courts of Law or Equity, may, if his Debt amount to the prescribed Sum alone, or if his Debt does not amount to the prescribed Sum, he may, in conjunction with other Mortgagees, whose Debts, being so in arrear, after Demand as aforesaid, shall, together with his, to the amount the prescribed Sum, require the Appointment of a Receiver, by an Application to be made as hereinafter provided.

Arrears of  
Interest,  
when to be  
enforced by  
Appointment of a  
Receiver.

Arrears of  
Principal  
and Interest

LIV. Every Application for a Receiver in the Cases aforesaid shall be made to Two Justices, and on any such Application it shall be lawful for such Justices, by Order in Writing, after hearing the Parties, to appoint some Person to receive the whole or a competent Part of the Tolls or Sums liable to the Payment of such Interest, or such Principal and Interest, as the Case may be, until such Interest, or until such Principal and Interest, as the Case may be, together with all Costs, including the Charges of receiving the Tolls or Sums aforesaid, be fully

Appoint-  
ment of Re-  
ceiver.

*Power to*

*Money.*

paid; and upon such Appointment being made all such Tolls and Sums of Money as aforesaid shall be paid to and received by the Person so to be appointed; and the Money so to be received shall be so much Money received by or to the Use of the Party to whom such Interest, or such Principal and Interest, as the Case may be, shall be then due, and on whose Behalf such Receiver shall have been appointed; and after such Interest and Costs, or such Principal, Interest, and Costs, have been so received, the Power of such Receiver shall cease.

*Access to  
Account  
Books by  
Mortgagees.*

LV. At all seasonable Times the Books of Account of the Company shall be open to the Inspection of the respective Mortgagees and Bond Creditors thereof, with Liberty to take Extracts therefrom, without Fee or Reward.

*Loans.*

And with respect to the Conversion of the borrowed Money into Capital, be it enacted as follows:

*Power to  
convert Loan  
into Capital.*

LVI. It shall be lawful for the Company, if they think fit, unless it be otherwise provided by the special Act, to raise the additional Sum so authorized to be borrowed, or any Part thereof, by creating new Shares of the Company, instead of borrowing the same, or having borrowed the same, to continue at Interest only a Part of such additional Sum, and to raise Part thereof by creating new Shares; but no such Augmentation of Capital as aforesaid shall take place without the previous Authority of a General Meeting of the Company.

*New Shares  
to be con-  
sidered same  
as original  
Shares.*

LVII. The Capital so to be raised by the Creation of new Shares shall be considered as Part of the general Capital, and shall be subject to the same Provisions in all respects, whether with reference to the Payment of Calls, or the Forfeiture of Shares on Nonpayment of Calls, or otherwise, as if it had been Part of the original Capital, except as to the Times of making Calls for such additional Capital, and the Amount of such Calls, which respectively it shall be lawful for the Company from Time to Time to fix as they shall think fit.

*If old Shares  
at Premium  
new Shares  
to be offered  
to the Share-  
holders.*

LVIII. If at the Time of any such Augmentation of Capital taking place by the Creation of new Shares the then existing Shares be at a Premium, or of greater actual Value than the nominal Value thereof, then, unless it be otherwise provided by the special Act, the Sum so to be raised shall be divided into Shares of such Amount as will conveniently allow the same to be apportioned among the then Shareholders in proportion to the existing Shares held by them respectively; and such new Shares shall be offered to the then Shareholders in the Proportion aforesaid; and such Offer shall be made by Letter under the Hand of the Secretary given to or sent by Post, addressed to each Shareholder according to his Address in the Shareholders' Address Book, or left at his usual or last Place of Abode.

*Shares to  
vest in the  
Parties ac-  
cepting;  
otherwise to  
be disposed  
of by the  
Directors.*

LIX. The said new Shares shall vest in and belong to the Shareholders who shall accept the same, and pay the Value thereof to the Company at the Time and by the Instalments which shall be fixed by the Company; and if any Shareholder fail for One Month after such Offer of new Shares to accept the same, and pay the Instalments called for in respect thereof, it shall be lawful for the Company to dispose of such Shares in such Manner as they shall deem most for the Advantage of the Company.

*If not at a Pre-  
mium, to be  
issued as Com-  
pany think fit.*

LX. If at the Time of such Augmentation of Capital taking place the existing Shares be not at a Premium, then such new



Shares may be of such Amount, and may be issued in such Manner and on such Terms, as the Company shall think fit.

*Consolidation of Shares.*

And with respect to the Consolidation of the Shares into Stock, be it enacted as follows :

LXI. It shall be lawful for the Company from Time to Time, with the Consent of Three Fifths of the Votes of the Shareholders present in Person or by Proxy at any General Meeting of the Company, when due Notice for that Purpose shall have been given, to convert or consolidate all or any Part of the Shares then existing in the Capital of the Company, and in respect whereof the whole Money subscribed shall have been paid up, into a General Capital Stock, to be divided amongst the Shareholders according to their respective Interests therein.

*Power to consolidate Shares into Stock.*

LXII. After such Conversion or Consolidation shall have taken place all the Provisions contained in this or the special Act which require or imply that the Capital of the Company shall be divided into Shares of any fixed Amount, and distinguished by Numbers, shall, as to so much of the Capital as shall have been so converted or consolidated into Stock, cease and be of no Effect, and the several Holders of such Stock may thenceforth transfer their respective Interests therein, or any Parts of such Interests, in the same Manner and subject to the same Regulations and Provisions as or according to which any Shares in the Capital of the Company might be transferred under the Provisions of this or the special Act ; and the Company shall cause an Entry to be made in some Book, to be kept for that Purpose, of every such Transfer ; and for every such Entry they may demand any Sum not exceeding the prescribed Amount, or if no Amount be prescribed a Sum not exceeding Two Shillings and Sixpence.

*Proprietors of Stock may transfer the same.*

LXIII. The Company shall from Time to Time cause the Names of the several Parties who may be interested in any such Stock as aforesaid, with the Amount of the Interest therein possessed by them respectively, to be entered in a Book to be kept for the Purpose, and to be called " The Register of Holders of Consolidated Stock " ; and such Book shall be accessible at all reasonable Times to the several Holders of Shares or Stock in the Undertaking.

*Register of Stock.*

LXIV. The several Holders of such Stock shall be entitled to participate in the Dividends and Profits of the Company, according to the Amount of their respective Interests in such Stock, and such Interests shall, in proportion to the Amount thereof, confer on the Holders thereof respectively the same Privileges and Advantages, for the Purpose of voting at Meetings of the Company, Qualification for the Office of Directors, and for other Purposes, as would have been conferred by Shares of equal Amount in the Capital of the Company, but so that none of such Privileges or Advantages, except the Participation in the Dividends and Profits of the Company, shall be conferred by any aliquot Part of such Amount of Consolidated Stock as would not, if existing in Shares, have conferred such Privileges or Advantages respectively.

*Proprietors of Stock entitled to Dividends.*

LXV. And be it enacted, That all the Money raised by the Company, whether by Subscriptions of the Shareholders, or by Loan or otherwise, shall be applied, firstly, in paying the Costs and Expenses incurred in obtaining the special Act, and all Expenses incident thereto, and, secondly, in carrying the Purposes of the Company into execution.

*Application of Capital.*

*General Meetings.*

Ordinary Meetings to be held if yearly.

Business at Ordinary Meetings.

Extraordinary Meetings.

Business at Extraordinary Meetings.

Extraordinary Meetings may be required by Shareholders.

Notice of Meetings.

Quorum for a General Meeting.

And with respect to the General Meetings of the Company, and the Exercise of the Right of Voting by the Shareholders, be it enacted as follows :

LXVI. The first General Meeting of the Shareholders of the Company shall be held within the prescribed Time, or if no Time be prescribed, within One Month after the passing of the special Act, and the future General Meetings shall be held at the prescribed Periods, and if no Periods be prescribed, in the Months of *February* and *August* in each Year, or at such other stated Periods as shall be appointed for that Purpose by an Order of a General Meeting ; and the Meetings so appointed to be held as aforesaid shall be called " Ordinary Meetings " ; and all Meetings, whether ordinary or extraordinary, shall be held in the prescribed Place, if any, and if no Place be prescribed, then at some Place to be appointed by the Directors.

LXVII. No Matters, except such as are appointed by this or the special Act to be done at an Ordinary Meeting, shall be transacted at any such Meeting, unless special Notice of such Matters have been given in the Advertisement convening such Meeting.

LXVIII. Every General Meeting of the Shareholders other than an Ordinary Meeting, shall be called an " Extraordinary Meeting " ; and such Meetings may be convened by the Directors at such Times as they think fit.

LXIX. No Extraordinary Meeting shall enter upon any Business not set forth in the Notice upon which it shall have been convened.

LXX. It shall be lawful for the prescribed Number of Shareholders, holding in the aggregate Shares to the prescribed Amount, or, where the Number of Shareholders or Amount of Shares shall not be prescribed, it shall be lawful for Twenty or more Shareholders holding in the aggregate not less than One Tenth of the Capital of the Company, by Writing under their Hands, at any Time to require the Directors to call an Extraordinary Meeting of the Company ; and such Requisition shall fully express the Object of the Meeting required to be called, and shall be left at the Office of the Company, or given to at least Three Directors, or left at their last or usual Places of Abode ; and forthwith upon the Receipt of such Requisition the Directors shall convene a Meeting of the Shareholders ; and if for Twenty-one Days after such Notice the Directors fail to call such Meeting, the prescribed Number, or such other Number as aforesaid, of Shareholders, qualified as aforesaid, may call such Meeting, by giving Fourteen Days public Notice thereof.

LXXI. Fourteen Days public Notice at the least of all Meetings, whether ordinary or extraordinary, shall be given by Advertisement, which shall specify the Place, the Day, and the Hour of Meeting ; and every Notice of an Extraordinary Meeting, or of an Ordinary Meeting, if any other Business than the Business hereby or by the special Act appointed for Ordinary Meetings is to be done thereat, shall specify the Purpose for which the Meeting is called.

LXXII. In order to constitute a Meeting (whether ordinary or extraordinary) there shall be present, either personally or by Proxy, the prescribed Quorum, and if no Quorum be prescribed then Shareholders holding in the aggregate not less than One Twentieth of the Capital of the Company, and being in Number

General  
Meetings.

not less than One for every Five hundred Pounds of such required Proportion of Capital, unless such Number would be more than Twenty, in which Case Twenty Shareholders holding not less than One Twentieth of the Capital of the Company, shall be the Quorum; and if within One Hour from the Time appointed for such Meeting the said Quorum be not present no Business shall be transacted at the Meeting, other than the declaring of a Dividend, in case that shall be one of the Objects of the Meeting, but such Meeting shall, except in the Case of a Meeting for the Election of Directors, hereinafter mentioned, be held to be adjourned *sine die*.

LXXIII. At every Meeting of the Company one or other of the following Persons shall preside as Chairman; that is to say, the Chairman of the Directors, or in his Absence the Deputy Chairman (if any), or in the Absence of the Chairman and Deputy Chairman some one of the Directors of the Company to be chosen for that Purpose by the Meeting, or in the Absence of the Chairman and Deputy Chairman and of all the Directors, any Shareholder to be chosen for that Purpose by a Majority of the Shareholders present at such Meeting.

Chairman at  
General  
Meetings.

LXXIV. The Shareholders present at any such Meeting shall proceed in the Execution of the Powers of the Company with respect to the Matters for which such Meeting shall have been convened, and those only; and every such Meeting may be adjourned from Time to Time, and from Place to Place; and no Business shall be transacted at any adjourned Meeting other than the Business left unfinished at the Meeting from which such Adjournment took place.

Business at  
Meetings and  
Adjourn-  
ments.

LXXV. At all General Meetings of the Company every Shareholder shall be entitled to vote according to the prescribed Scale of Voting, and where no Scale shall be prescribed every Shareholder shall have One Vote for every Share up to Ten, and he shall have an additional Vote for every Five Shares beyond the first Ten Shares held by him up to One hundred, and an additional Vote for every Ten Shares held by him beyond the first Hundred Shares; provided always, that no Shareholder shall be entitled to vote at any Meeting unless he shall have paid all the Calls then due upon the Shares held by him.

Votes of  
Shareholders.

LXXVI. The Votes may be given either personally or by Proxies, being Shareholders, authorized by Writing according to the Form in the Schedule (F.) to this Act annexed, or in a Form to the like Effect, under the Hand of the Shareholder nominating such Proxy, or if such Shareholder be a Corporation, then under their Common Seal; and every Proposition at any such Meeting shall be determined by the Majority of Votes of the Parties present, including Proxies, the Chairman of the Meeting being entitled to vote, not only as a Principal and Proxy, but to have a casting Vote if there be an Equality of Votes.

Manner  
of voting.

LXXVII. No Person shall be entitled to vote as a Proxy unless the Instrument appointing such Proxy have been transmitted to the Secretary of the Company the prescribed Period, or, if no Period be prescribed, not less than Forty-eight Hours before the Time appointed for holding the Meeting at which such Proxy is to be used.

Regulations  
as to Proxies.

LXXVIII. If several Persons be jointly entitled to a Share, the Person whose Name stands first in the Register of Shareholders as one of the Holders of such Share shall, for the Purpose

Votes of  
joint Share-  
holders.

*General Meetings.*

of voting at any Meeting, be deemed the sole Proprietor thereof; and on all Occasions the Vote of such first-named Shareholder, either in Person or by Proxy, shall be allowed as the Vote in respect of such Share without Proof of the Concurrence of the other Holders thereof.

Votes of Lunatics and Minors, &c.

LXXXIX. If any Shareholder be a Lunatic or Idiot, such Lunatic or Idiot may vote by his Committee; and if any Shareholder be a Minor he may vote by his Guardian or any one of his Guardians; and every such Vote may be given either in Person or by Proxy.

Proof of a particular Majority of Votes only required in the Event of a Poll being demanded.

LXXX. Whenever in this or the special Act the Consent of any particular Majority of Votes at any Meeting of the Company is required in order to authorize any Proceeding of the Company, such particular Majority shall only be required to be proved in the event of a Poll being demanded at such Meeting; and if such Poll be not demanded, then a Declaration by the Chairman that the Resolution authorizing such Proceeding has been carried, and an Entry to that Effect in the Book of Proceedings of the Company, shall be sufficient Authority for such Proceeding, without Proof of the Number or Proportion of Votes recorded in favour of or against the same.

*Appointment and Rotation of Directors.*

And with respect to the Appointment and Rotation of Directors, be it enacted as follows:

Number of Directors.

LXXXI. The Number of Directors shall be the prescribed Number.

Power to vary the Number of Directors.

LXXXII. Where the Company shall be authorized by the special Act to increase or to reduce the Number of the Directors it shall be lawful for the Company, from Time to Time, in General Meeting, after due Notice for that Purpose, to increase or reduce the Number of the Directors within the prescribed Limits, if any, and to determine the Order of Rotation in which such reduced or increased Number shall go out of Office, and what Number shall be a Quorum at their Meetings.

Election of Directors.

LXXXIII. The Directors appointed by the special Act shall, unless thereby otherwise provided, continue in Office until the first Ordinary Meeting to be held in the Year next after that in which the special Act shall have passed; and at such Meeting the Shareholders present, personally or by Proxy, may either continue in Office the Directors appointed by the special Act, or any Number of them, or may elect a new Body of Directors, or Directors to supply the Places of those not continued in Office, the Directors appointed by the special Act being eligible as Members of such new Body; and at the first Ordinary Meeting to be held every Year thereafter the Shareholders present, personally or by Proxy, shall elect Persons to supply the Places of the Directors then retiring from Office, agreeably to the Provisions hereinafter contained; and the several Persons elected at any such Meeting, being neither removed nor disqualified, nor having resigned, shall continue to be Directors until others are elected in their Stead, as hereinafter mentioned.

Existing Directors continued on failure of Meeting for Election of Directors.

LXXXIV. If at any Meeting at which an Election of Directors ought to take place the prescribed Quorum shall not be present within One Hour from the Time appointed for the Meeting no Election of Directors shall be made, but such Meeting shall stand adjourned to the following Day at the same Time and Place; and if at the Meeting so adjourned the prescribed Quorum be not present within One Hour from the Time appointed for the Meeting the existing Directors shall continue to act and

retain their Powers until new Directors be appointed at the first Ordinary Meeting of the following Year.

*Appointment  
and Rotation  
of Directors.*

LXXXV. No Person shall be capable of being a Director unless he be a Shareholder, nor unless he be possessed of the prescribed Number, if any, of Shares; and no Person holding an Office or Place of Trust or Profit under the Company, or interested in any Contract with the Company, shall be capable of being a Director; and no Director shall be capable of accepting any other Office or Place of Trust or Profit under the Company, or of being interested in any Contract with the Company, during the Time he shall be a Director.

*Qualification  
of Directors.*

LXXXVI. If any of the Directors at any Time subsequently to his Election accept or continue to hold any other Office or Place of Trust or Profit under the Company, or be either directly or indirectly concerned in any Contract with the Company, or participate in any Manner in the Profits of any Work to be done for the Company, or if such Director at any Time cease to be a Holder of the prescribed Number of Shares in the Company, then in any of the Cases aforesaid the Office of such Director shall become vacant, and thenceforth he shall cease from voting or acting as a Director.

*Cases in  
which Office  
of Director  
shall become  
vacant.*

LXXXVII. Provided always, that no Person, being a Shareholder or Member of any incorporated Joint Stock Company, shall be disqualified or prevented from acting as a Director by reason of any Contract entered into between such Joint Stock Company and the Company incorporated by the special Act; but no such Director, being a Shareholder or Member of such Joint Stock Company, shall vote on any Question as to any Contract with such Joint Stock Company.

*Shareholder  
of an incor-  
porated Joint  
Stock Com-  
pany not dis-  
qualified by  
reason of  
Contracts.*

LXXXVIII. The Directors appointed by the special Act, and continued in Office as aforesaid, or the Directors elected to supply the Places of those retiring as aforesaid, shall, subject to the Provision hereinbefore contained for increasing or reducing the Number of Directors, retire from Office at the Times and in the Proportions following, the Individuals to retire being in each Instance determined by Ballot among the Directors, unless they shall otherwise agree; (that is to say),

*Rotation of  
Directors*

At the End of the First Year after the First Election of

Directors the prescribed Number, and if no Number be prescribed One Third of such Directors, to be determined by Ballot among themselves, unless they shall otherwise agree, shall go out of Office:

At the End of the Second Year the prescribed Number, and if no Number be prescribed One Half of the remaining Number of such Directors, to be determined in like Manner, shall go out of Office:

At the End of the Third Year the prescribed Number, and if no Number be prescribed the Remainder of such Directors, shall go out of Office:

And in each Instance the Places of the retiring Directors shall be supplied by an equal Number of qualified Shareholders; and at the First Ordinary Meeting in every subsequent Year the prescribed Number, and if no Number be prescribed One Third of the Directors, being those who have been longest in Office, shall go out of Office, and their Places shall be supplied in like Manner; nevertheless every Director so retiring from Office may be re-elected immediately or at any future Time, and after such Re-election shall, with reference to the going out by

*Appointment  
and Rotation  
of Directors.*

Rotation, be considered as a new Director: Provided always, that if the prescribed Number of Directors be some Number not divisible by Three, and the Number of Directors to retire be not prescribed; the Directors shall in each Case determine what Number of Directors, as nearly One Third as may be, shall go out of Office, so that the whole Number shall go out of Office in Three Years.

*Supply of  
occasional  
Vacancies in  
Office of  
Directors*

LXXXIX. If any Director die, or resign, or become disqualified or incompetent to act as a Director, or cease to be a Director by any other Cause than that of going out of Office by Rotation as aforesaid, the remaining Directors, if they think proper so to do, may elect in his Place some other Shareholder, duly qualified, to be a Director; and the Shareholder so elected to fill up any such Vacancy shall continue in Office as a Director so long only as the Person in whose Place he shall have been elected would have been entitled to continue if he had remained in Office.

*Powers  
of Directors.**Powers of  
the Company  
to be exer-  
cised by the  
Directors.*

And, with respect to the Powers of the Directors, and the Powers of the Company to be exercised only in General Meeting, be it enacted as follows:

XC. The Directors shall have the Management and Superintendence of the Affairs of the Company, and they may lawfully exercise all the Powers of the Company, except as to such Matters as are directed by this or the special Act to be transacted by a General Meeting of the Company, but all the powers so to be exercised shall be exercised in accordance with and subject to the Provisions of this and the special Act; and the Exercise of all such Powers shall be subject also to the Control and Regulation of any General Meeting specially convened for the Purpose, but not so as to render invalid any Act done by the Directors prior to any resolution passed by such General Meeting.

*Powers of  
the Company  
not to be  
exercised by  
the Direc-  
tors.*

XCI. Except as otherwise provided by the special Act, the following Powers of the Company, (that is to say,) the Choice and Removal of the Directors, except as hereinbefore mentioned, and the increasing or reducing of their Number where authorized by the special Act, the Choice of Auditors, the Determination as to the Remuneration of the Directors, Auditors, Treasurer, and Secretary, the Determination as to the Amount of Money to be borrowed on Mortgage, the Determination as to the Augmentation of Capital, and the Declaration of Dividends, shall be exercised only at a General Meeting of the Company:

*Proceedings  
of Directors.**Meetings of  
Directors.*

And with respect to the Proceedings and Liabilities of the Directors, be it enacted as follows:

XCII. The Directors shall hold Meetings at such Times as they shall appoint for the Purpose, and they may meet and adjourn as they think proper, from Time to Time, and from Place to Place; and at any Time any Two of the Directors may require the Secretary to call a Meeting of the Directors, and in order to constitute a Meeting of Directors there shall be present at the least the prescribed Quorum, and when no Quorum shall be prescribed there shall be present at least One Third of the Directors; and all Questions at any such Meeting shall be determined by the Majority of Votes of the Directors present, and in case of an equal Division of Votes the Chairman shall have a casting Vote in addition to his Vote as one of the Directors.

XCIH. At the First Meeting of Directors held after the passing of the special Act, and at the First Meeting of the Directors held after each annual Appointment of Directors, the Directors present at such Meeting shall choose one of the Directors to act as Chairman of the Directors for the Year following such Choice, and shall also, if they think fit, choose another Director to act as Deputy Chairman for the same Period; and if the Chairman or Deputy Chairman die or resign, or cease to be a Director, or otherwise become disqualified to act, the Directors present at the Meeting next after the Occurrence of such Vacancy shall choose some other of the Directors to fill such Vacancy; and every such Chairman or Deputy Chairman so elected as last aforesaid shall continue in Office so long only as the Person in whose Place he may be so elected would have been entitled to continue if such Death, Resignation, Removal, or Disqualification had not happened.

XCIV. If at any Meeting of the Directors neither the Chairman nor Deputy Chairman be present the Directors present shall choose some one of their Number to be Chairman of such Meeting.

XCV. It shall be lawful for the Directors to appoint One or more Committees, consisting of such Number of Directors as they think fit, within the prescribed Limits, if any, and they may grant to such Committees respectively Power on behalf of the Company to do any Acts relating to the Affairs of the Company which the Directors could lawfully do, and which they shall from Time to Time think proper to intrust to them.

XCVI. The said Committees may meet from Time to Time, and may adjourn from Place to Place, as they think proper, for carrying into effect the Purposes of their Appointment; and no such Committee shall exercise the Powers intrusted to them except at a Meeting at which there shall be present the prescribed Quorum, or if no Quorum be prescribed then a Quorum to be fixed for that Purpose by the general Body of Directors; and at all Meetings of the Committees One of the Members present shall be appointed Chairman; and all Questions at any Meeting of the Committee shall be determined by a Majority of Votes of the Members present, and in case of an equal Division of Votes the Chairman shall have a casting Vote in addition to his Vote as a Member of the Committee.

XCVII. The Power which may be granted to any such Committee to make Contracts, as well as the Power of the Directors to make Contracts on behalf of the Company, may lawfully be exercised as follows; (that is to say.)

With respect to any Contract which, if made between private Persons, would be by Law required to be in Writing, and under Seal, such Committee or the Directors may make such Contract on behalf of the Company in Writing, and under the Common Seal of the Company, and in the same Manner may vary or discharge the same:

With respect to any Contract which, if made between private Persons, would be by Law required to be in Writing, and signed by the Parties to be charged therewith, then such Committee or the Directors may make such Contract on behalf of the Company in Writing, signed by such Committee or any Two of them, or any Two of the Directors, and in the same Manner may vary or discharge the same: With respect to any Contract which, if made between private

*Proceedings  
of Directors.  
Permanent  
Chairman of  
Directors.*

*Occasional  
Chairman of  
Directors.*

*Committees  
of Directors.*

*Powers of  
Committees.*

*Meetings of  
Committees.*

*Contracts by  
Committee  
or Directors,  
how to be  
entered into.*

*Proceedings  
of Directors.*

Persons, would by Law be valid although made by Parol only, and not reduced into Writing, such Committees, or the Directors may make such Contract on behalf of the Company by Parol only, without Writing, and in the same Manner may vary or discharge the same :

And all Contracts made according to the Provisions herein contained shall be effectual in Law, and shall be binding upon the Company and their Successors, and all other Parties thereto, their Heirs, Executors, or Administrators, as the Case may be ; and on any Default in the Execution of any such Contract, either by the Company or any other Party thereto, such Actions or Suits may be brought, either by or against the Company, as might be brought had the same Contracts been made between private Persons only.

*Proceedings  
to be entered  
in a Book,  
and to be  
Evidence.*

XCVIII. The Directors shall cause Notes, Minutes, or Copies, as the Case may require, of all Appointments made or Contracts entered into by the Directors, and of the Orders and Proceedings of all Meetings of the Company, and of the Directors and Committees of Directors, to be duly entered in Books, to be from Time to Time provided for the Purpose, which shall be kept under the Superintendence of the Directors ; and every such Entry shall be signed by the Chairman of such Meeting ; and such Entry, so signed, shall be received as Evidence in all Courts, and before all Judges, Justices, and others, without Proof of such respective Meetings having been duly convened or held, or of the Persons making or entering such Orders or Proceedings, being Shareholders or Directors or Members of Committee respectively, or of the Signature of the Chairman, or of the Fact of his having been Chairman, all of which last-mentioned Matters shall be presumed, until the contrary be proved.

*Informalities  
in Appointment  
of  
Directors not  
to invalidate  
Proceedings.*

XCIX. All Acts done by any Meeting of the Directors, or of a Committee of Directors, or by any Person acting as a Director, shall, notwithstanding it may be afterwards discovered that there was some defect in the Appointment of any such Directors or Persons acting as aforesaid, or that they or any of them were or was disqualified, be as valid as if every such Person had been duly appointed and was qualified to be a Director.

*to be person-  
ally liable.*

C. No Director, by being Party to or executing in his Capacity of Director any Contract or other Instrument on behalf of the Company, or otherwise lawfully executing any of the Powers given to the Directors, shall be subject to be sued or prosecuted, either individually or collectively, by any Person whomsoever ; and the Bodies or Goods or Lands of the Directors shall not be liable to Execution of any legal Process by reason of any Contract or other Instrument so entered into, signed, or executed by them, or by reason of any other lawful Act done by them in the Execution of any of their Powers as Directors ; and the Directors, their Heirs, Executors, and Administrators, shall be indemnified out of the Capital of the Company for all Payments made, or Liability incurred in respect of any Acts done by them, and for all Losses, Costs, and Damages which they may incur in the execution of the Powers granted to them ; and the Directors for the Time being of the Company may apply the existing Funds and Capital of the Company for the Purposes of such Indemnity, and may, if necessary for that Purpose, make Calls of the Capital remaining unpaid, if any.

*Indemnity of  
Directors.*



"And with respect to the Appointment and Duties of Auditors, be it enacted as follows:

*Auditors.*

C.I. Except where by the special Act Auditors shall be directed to be appointed otherwise than by the Company, the Company shall, at the First Ordinary Meeting after the passing of the special Act, elect the prescribed Number of Auditors, and if no Number is prescribed Two Auditors, in like Manner as is provided for the Election of Directors; and at the First Ordinary Meeting of the Company in each Year thereafter the Company shall in like Manner elect an Auditor to supply the Place of the Auditor then retiring from Office, according to the Provision hereinafter contained; and every Auditor elected as hereinbefore provided, being neither removed nor disqualified, nor having resigned, shall continue to be an Auditor until another be elected in his Stead.

*Elections of Auditors.*

C.II. Where no other Qualification shall be prescribed by the special Act, every Auditor shall have at least One Share in the Undertaking; and he shall not hold any Office in the Company, nor be in any other Manner interested in its Concerns, except as a Shareholder.

*Qualification of Auditors.*

C.III. One of such Auditors (to be determined in the first instance by Ballot between themselves, unless they shall otherwise agree, and afterwards by Seniority), shall go out of Office at the First Ordinary Meeting in each Year; but the Auditor so going out shall be immediately re-eligible, and after any such Re-election shall, with respect to the going out of Office by Rotation, be deemed a new Auditor.

*Rotation of Auditors.*

C.IV. If any Vacancy take place among the Auditors in the Course of the Current Year, then at any General Meeting of the Company the Vacancy may, if the Company think fit, be supplied by Election of the Shareholders.

*Vacancies in Office of Auditor.*

C.V. The Provision of this Act respecting the Failure of an Ordinary Meeting at which Directors ought to be chosen shall apply, *mutatis mutandis*, to any Ordinary Meeting at which an Auditor ought to be appointed.

*Failure of Meeting to elect Auditor.*

C.VI. The Directors shall deliver to such Auditors the half-yearly or other periodical Accounts and Balance Sheet, Fourteen Days at the least before the ensuing Ordinary Meeting at which the same are required to be produced to the Shareholders as hereinafter provided.

*Delivery of Balance Sheet, &c., by Directors to Auditors.*

C.VII. It shall be the Duty of such Auditors to receive from the Directors the half-yearly or other periodical Accounts and Balance Sheet required to be presented to the Shareholders, and to examine the same.

*Duty of Auditors.*

C.VIII. It shall be lawful for the Auditors to employ such Accountants and other Persons as they may think proper, at the Expense of the Company, and they shall either make a special Report on the said Accounts, or simply confirm the same; and such Report or Confirmation shall be read, together with the Report of the Directors, at the Ordinary Meeting.

*Power of Auditors.*

And with respect to the Accountability of the Officers of the Company, be it enacted as follows:

*Accountability of Officers.*

C.IX. Before any Person intrusted with the Custody or Control of Monies, whether Treasurer, Collector, or other Officer of the Company, shall enter upon his Office, the Directors shall take sufficient Security from him for the faithful Execution of his Office.

*Security to be taken from Officers intrusted with Money. Officers to account, on demand.*

C.X. Every Officer employed by the Company shall from Time to Time, when required by the Directors, make out and

*Accountability  
of Officers.*

deliver to them, or to any Person appointed by them for that Purpose, a true and perfect Account in Writing under his Hand of all Monies received by him on behalf of the Company; and such Account shall state how, and to whom, and for what Purpose such Monies shall have been disposed of; and, together, with such Account, such Officer shall deliver the Vouchers, and Receipts for such Payments; and every such Officer shall pay to the Directors, or to any Person appointed by them to receive the same, all Monies which shall appear to be owing from him upon the Balance of such Accounts.

*Summary  
Remedy  
against Par-  
ties failing to  
account.*

CXI. If any such Officer fail to render such Account, or to produce and deliver up all the Vouchers and Receipts relating to the same in his Possession or Power, or to pay the Balance thereof when thereunto required, or if for Three Days after being thereunto required he fail to deliver up to the Directors, or to any Person appointed by them to receive the same, all Papers and Writings, Property, Effects, Matters, and Things, in his Possession or Power, relating to the Execution of this or the special Act, or any Act incorporated therewith, or belonging to the Company, then, on Complaint thereof being made to a Justice, such Justice shall summon such Officer to appear before Two or more Justices at a Time and Place to be set forth in such Summons, to answer such Charge; and upon the Appearance of such Officer, or in his Absence upon Proof that such Summons was personally served upon him, or left at his last known Place of Abode, such Justices may hear and determine the Matter in a summary Way, and may adjust and declare the Balance owing by such Officer; and if it appear, either upon Confession of such Officer or upon Evidence, or upon Inspection of the Account, that any Monies of the Company are in the Hands of such Officer, or owing by him to the Company, such Justices may order such Officer to pay the same; and if he fail to pay the Amount it shall be lawful for such Justices to grant a Warrant to levy the same by Distress, or, in default thereof, to commit the Offender to Gaol, there to remain without Bail for a Period not exceeding Three Months, unless the same be sooner paid.

*Officers re-  
fusing to  
deliver up Doc-  
uments, &c.,  
to be impris-  
oned.*

CXII. If any such Officer refuse to make out such Account in Writing, or to produce and deliver to the Justices the several Vouchers and Receipts relating thereto, or to deliver up any Books, Papers, or Writings, Property, Effects, Matters, or Things, in his Possession or Power, belonging to the Company, such Justices may lawfully commit such Offender to Gaol, there to remain until he shall have delivered up all the Vouchers and Receipts, if any, in his Possession or Power, relating to such Accounts, and have delivered up all Books, Papers, Writings, Property, Effects, Matters, and Things, if any, in his Possession or Power, belonging to the Company.

*Where Offi-  
cer about  
to abscond a  
Warrant may  
be issued in  
the first in-  
stance.*

CXIII. Provided always, that if any Director or other Person acting on behalf of the Company shall make Oath that he has good Reason to believe, upon Grounds to be stated in his Deposition, and does believe, that it is the Intention of any such Officer as aforesaid to abscond, it shall be lawful for the Justice before whom the Complaint is made instead of issuing his Summons, to issue his Warrant for the bringing such Officer before such Two Justices as aforesaid; but no Person executing such Warrant shall keep such Officer in Custody longer than Twenty-four Hours, without bringing him before some Justice; and it shall be lawful for the Justice before whom such Officer

may be brought either to discharge such Officer, if he think there is no sufficient Ground for his Detention, or to order such Officer to be detained in Custody, so as to be brought before Two Justices, at a Time and Place to be named in such Order, unless such Officer give Bail to the Satisfaction of such Justice for his Appearance before such Justices to answer the Complaint of the Company.

*Accountability  
of Officers.*

CXIV. No such Proceeding against or Dealing with any such Officer as aforesaid shall deprive the Company of any Remedy which they might otherwise have against such Officer, or any Surety of such Officer.

*Sureties not  
to be dis-  
charged.*

And with respect to the keeping of Accounts, and the Right of Inspection thereof by the Shareholders, be it enacted as follows:

*Accounts.*

CXV. The Directors shall cause full and true Accounts to be kept of all Sums of Money received or expended on account of the Company by the Directors and all Persons employed by or under them, and of the Matters and Things for which such Sums of Money shall have been received or disbursed and paid.

*Accounts to  
be kept.*

CXVI. The Books of the Company shall be balanced at the prescribed Periods, and, if no Periods be prescribed, Fourteen Days at least before each Ordinary Meeting; and forthwith on the Books being so balanced an exact Balance Sheet shall be made up, which shall exhibit a true Statement of the Capital Stock, Credits, and Property of every Description belonging to the Company, and the Debts due by the Company at the Date of making such Balance Sheet, and a distinct View of the Profit or Loss which shall have arisen on the Transactions of the Company in the course of the preceding Half Year; and previously to each Ordinary Meeting such Balance Sheet shall be examined by the Directors, or any Three of their Number, and shall be signed by the Chairman or Deputy Chairman of the Directors.

*Books to be  
balanced.*

CXVII. The Books so balanced, together with such Balance Sheet as aforesaid, shall for the prescribed Periods, and if no Periods be prescribed for Fourteen Days previous to each Ordinary Meeting, and for One Month thereafter, be open for the Inspection of the Shareholders at the principal Office or Place of Business of the Company; but the Shareholders shall not be entitled at any Time, except during the Periods aforesaid, to demand the Inspection of such Books, unless in virtue of a written Order signed by Three of the Directors.

*Inspection of  
Accounts by  
Shareholders,  
at stated  
Times.*

CXVIII. The Directors shall produce to the Shareholders assembled at such Ordinary Meeting the said Balance Sheet, applicable to the Period immediately preceding such Meeting, together with the Report of the Auditors thereon, as hereinbefore provided.

*Balance  
Sheet to be  
produced at  
the Meeting.*

CXIX. The Directors shall appoint a Book-keeper to enter the Accounts aforesaid in Books to be provided for the Purpose; and every such Book-keeper shall permit any Shareholder to inspect such Books, and to take Copies or Extracts therefrom, at any reasonable Time, during the prescribed Periods, and if no Periods be prescribed during One Fortnight before and One Month after every Ordinary Meeting; and if he fail to permit any such Shareholder to inspect such Books, or take Copies or Extracts therefrom, during the Periods aforesaid, he shall forfeit to such Shareholder for every such Offence a sum not exceeding Five Pounds.

*Book-keeper  
to allow In-  
spection of  
the Accounts  
at the ap-  
pointed  
Times.*

*Dividends.*

Previously to Declaration of Dividends a Scheme to be prepared.

And with respect to the making of Dividends, be it enacted as follows.

CXXX. Previously to every Ordinary Meeting at which a Dividend is intended to be declared the Directors shall cause a Scheme to be prepared, showing the Profits, if any, of the Company for the Period current since the preceding Ordinary Meeting at which a Dividend was declared, and apportioning the same, or so much thereof as they may consider applicable to the Purposes of Dividend, among the Shareholders, according to the Shares held by them respectively, the Amount paid thereon, and the Periods during which the same may have been paid, and shall exhibit such Scheme at such Ordinary Meeting, and at such Meeting a Dividend may be declared according to such Scheme.

Dividend not to be made so as to reduce Capital.

CXXXI. The Company shall not make any Dividend whereby their Capital Stock will be in any degree reduced: Provided always, that the Word "Dividend" shall not be construed to apply to a Return of any Portion of the Capital Stock, with the Consent of all the Mortgagees and Bond Creditors of the Company due Notice being given for that Purpose at an Extraordinary Meeting to be convened for that Object.

Power to Directors to set apart a Fund for Contingencies.

CXXXII. Before apportioning the Profits to be divided among the Shareholders the Directors may, if they think fit, set aside thereout such Sum as they may think proper to meet Contingencies, or for enlarging, repairing, or improving the Works connected with the Undertaking, or any Part thereof, and may divide the Balance only among the Shareholders.

Dividend not to be paid unless all Calls paid.

CXXXIII. No Dividend shall be paid in respect of any Share until all Calls then due in respect of that and every other Share held by the Person to whom such Dividend may be payable shall have been paid.

*Bye Laws.*

Power to make Bye Laws for the Officers of the Company.

And with respect to the making of Bye Laws, be it enacted as follows:

CXXXIV. It shall be lawful for the Company from Time to Time to make such Bye Laws as they think fit, for the Purpose of regulating the Conduct of the Officers and Servants of the Company, and for providing for the due Management of the Affairs of the Company in all respects whatsoever, and from Time to Time to alter or repeal any such Bye Laws, and make others, provided such Bye Laws be not repugnant to the Laws of that Part of the United Kingdom where the same are to have effect, or to the Provisions of this or the special Acts; and such Bye Laws shall be reduced into Writing, and shall have affixed thereto the Common Seal of the Company; and a Copy of such Bye Laws shall be given to every Officer and Servant of the Company affected thereby.

Fines for Breach of such Bye Laws.

CXXXV. It shall be lawful for the Company, by such Bye Laws, to impose such reasonable Penalties upon all Persons, being Officers or Servants of the Company, offending against such Bye Laws, as the Company think fit, not exceeding Five Pounds for any One Offence.

Bye Laws to be so framed as that Penalties may be mitigated.

CXXXVI. All the Bye Laws to be made by the Company shall be so framed as to allow the Justice before whom any Penalty imposed thereby may be sought to be recovered to order a Part only of such Penalty to be paid, if such Justice shall think fit.

Evidence of Bye Laws.

CXXXVII. The Production of a written or printed Copy of the Bye Laws of the Company, having the Common Seal of the

Company affixed thereto, shall be sufficient Evidence of such Bye Laws in all Cases of Prosecution under the same.

And with respect to the Settlement of Disputes by Arbitration, be it enacted as follows :

CXXVIII. When any Dispute authorized or directed by this or the special Act, or any Act incorporated therewith, to be settled by Arbitration, shall have arisen, then, unless both Parties shall concur in the Appointment of a single Arbitrator, each Party, on the Request of the other Party, shall by Writing under his Hand nominate and appoint an Arbitrator to whom such Dispute shall be referred ; and after any such Appointment shall have been made neither Party shall have Power to revoke the same without the Consent of the other, nor shall the Death of either Party operate as such Revocation ; and if for the Space of Fourteen Days after any such Dispute shall have arisen, and after a request in Writing shall have been served by the one Party on the other Party to appoint an Arbitrator, such last-mentioned Party fail to appoint such Arbitrator, then upon such Failure the Party making the Request, and having himself appointed an Arbitrator, may appoint such Arbitrator to act on behalf of both Parties, and such Arbitrator may proceed to hear and determine the Matters which shall be in dispute ; and in such Case the Award or Determination of such single Arbitrator shall be final.

CXXIX. If before the Matters so referred shall be determined any Arbitrator appointed by either Party die, or become incapable or refuse or for Seven Days neglect to act as Arbitrator, the Party by whom such Arbitrator was appointed may nominate and appoint in Writing some other Person to act in his Place ; and if for the Space of Seven days after Notice in Writing from the other Party for that Purpose he fail to do so the remaining or other Arbitrator may proceed *ex parte* ; and every Arbitrator so to be substituted as aforesaid shall have the same Powers and Authorities as were vested in the former Arbitrator at the Time of such his Death, Refusal, or Disability as aforesaid.

CXXX. Where more than One Arbitrator shall have been appointed such Arbitrators shall, before they enter upon the Matters referred to them, nominate and appoint by Writing under their Hands an Umpire to decide on any such Matters on which they shall differ ; and if such Umpire shall die, or refuse or for Seven Days neglect to act, they shall forthwith after such Death, Refusal, or Neglect appoint another Umpire in his Place ; and the Decision of every such Umpire on the Matters so referred to him shall be final.

CXXXI. If in either of the Cases aforesaid the said Arbitrators shall refuse, or shall, for Seven Days after Request of either Party to such Arbitration, neglect to appoint an Umpire, it shall be lawful for the Board of Trade, if they think fit, in any Case in which a Railway Company shall be one Party to the Arbitration, on the Application of either Party to such Arbitration, to appoint an Umpire ; and the Decision of such Umpire on the Matters on which the Arbitrators shall differ shall be final.

CXXXII. The said Arbitrators or their Umpire may call for the Production of any Documents in the Possession or Power of either Party which they or he may think necessary for determining the Question in dispute, and may examine the Parties or their Witnesses on Oath, and administer the Oaths necessary for that Purpose.

Arbitration.

Appointment of Arbitrator when Questions are to be determined by Arbitration.

Vacancy of Arbitrator to be supplied.

Appointment of Umpire.

Board of Trade empowered to appoint an Umpire, on Neglect of the Arbitrators, in case of Railway Companies.

Power of Arbitrators to call for Books, &c.

*Arbitration.*

Costs to be  
in the Dis-  
cretion of the  
Arbitrators.

CXXXIII. Except where by this or the special Act, or any Act incorporated therewith, it shall be otherwise provided, the Costs of and attending every such Arbitration to be determined by the Arbitrators shall be in the Discretion of the Arbitrators or their Umpires, as the Case may be.

Submission  
to Arbitra-  
tion to be  
made Rule of  
Court.

CXXXIV. The Submission to any such Arbitration may be made a Rule of any of the Superior Courts, on the Application of either of the Parties.

*Notices.*

Service of  
Notices upon  
Company.

And with respect to the giving of Notices, be it enacted as follows :

CXXXV. Any Summons or Notice, or any Writ, or other Proceeding, at Law or in Equity, requiring to be served upon the Company, may be served by the same being left at, or transmitted through the Post directed to the principal Office of the Company, or one of their principal Offices where there shall be more than one, or being given personally to the Secretary, or in case there be no Secretary then by being given to any one Director of the Company.

Service by  
Company on  
Share-  
holders.

CXXXVI. Notices requiring to be served by the Company upon the Shareholders may, unless expressly required to be served personally, be served by the same being transmitted through the Post directed according to the registered Address or other known Address of the Shareholder, within such Period as to admit of its being delivered in the due Course of Delivery within the Period (if any) prescribed for the giving of such Notice ; and in proving such Service it shall be sufficient to prove that such Notice was properly directed, and that it was so put into the Post Office.

Notices to  
joint Pro-  
prieters of  
Shares.

CXXXVII. All Notices directed to be given to the Shareholders shall, with respect to any Share to which Persons are jointly entitled, be given to whichever of the said Persons shall be named first in the Register of Shareholders ; and Notice so given shall be sufficient Notice to all the Proprietors of such Share.

Notices by  
Advertiser-  
ment.

CXXXVIII. All Notices required by this or the special Act, or any Act incorporated therewith, to be given by Advertisement, shall be advertised in the prescribed Newspaper, or if no Newspaper be prescribed, or if the prescribed Newspaper cease to be published, in a Newspaper circulating in the District within which the Company's principal Place of Business shall be situated.

Authenti-  
cation of  
Notices.

CXXXIX. Every Summons, Notice, or other such Document requiring Authentication by the Company, may be signed by Two Directors, or by the Treasurer or the Secretary of the Company, and need not be under the Common Seal of the Company, and the same may be in Writing or in Print, or partly in Writing and partly in Print.

Proof of  
Debts in  
Bankruptcy.

CXL. And be it enacted, That if any Person against whom the Company shall have any Claim or Demand become bankrupt, or take the Benefit of any Act for the Relief of Insolvent Debtors, it shall be lawful for the Secretary or Treasurer of the Company, in all Proceedings against the Estate of such Bankrupt or Insolvent, or under any Fiat, Sequestration, or Act of Insolvency against such Bankrupt or Insolvent, to represent the Company, and act in their Behalf, in all respects as if such Claim or Demand had been the Claim or Demand of such Secretary or Treasurer, and not of the Company.

*Notices.*Tender of  
Amends.

CXLI. And be it enacted, That if any Party shall have committed any Irregularity, Trespass, or other wrongful Proceeding in the Execution of this or the special Act, or by virtue of any Power or Authority thereby given, and if, before Action brought in respect thereof, such Party make Tender of sufficient Amends to the Party injured, such last-mentioned Party shall not recover in any such Action; and if no such Tender shall have been made it shall be lawful for the Defendant, by Leave of the Court where such Action shall be pending, at any Time before Issue joined, to pay into Court such Sum of Money as he shall think fit; and thereupon such Proceedings shall be had as in other Cases where Defendants are allowed to pay Money into Court.

*Recovery of  
Damages and  
Penalties.*

And with respect to the Recovery of Damages not specially provided for, and Penalties, be it enacted as follows:

Provision for  
Damages not  
otherwise  
provided

CXLII. In all Cases where any Damages, Costs, or Expenses are by this or the special Act, or any Act incorporated therewith, directed to be paid, and the Method of ascertaining the Amount or enforcing the Payment thereof is not provided for, such Amount, in case of Dispute, shall be ascertained and determined by Two Justices; and if the Amount so ascertained be not paid by the Company or other Party liable to pay the same within Seven Days after Demand, the Amount may be recovered by Distress of the Goods of the Company or other Party liable as aforesaid; and the Justices by whom the same shall have been ordered to be paid, or either of them, on Application, shall issue their or his Warrant accordingly.

Distress  
against the  
Treasurer.

CXLIII. If sufficient Goods of the Company cannot be found whereon to levy any such Damages, Costs, or Expenses, payable by the Company, the same may, if the Amount thereof do not exceed Twenty Pounds, be recovered by Distress of the Goods of the Treasurer of the Company; and the Justices aforesaid, or either of them, on Application, shall issue their or his Warrant accordingly; but no such Distress shall issue against the Goods of such Treasurer unless Seven days previous Notice in Writing, stating the Amount so due, and demanding Payment thereof, have been given to such Treasurer, or left at his Residence; and if such Treasurer pay any Money under such Distress as aforesaid, he may retain the Amount so paid by him, and all Costs and Expenses occasioned thereby, out of any Money belonging to the Company coming into his Custody or Control, or he may sue the Company for the same.

Method of  
Proceeding  
before Jus-  
tices in  
Questions of  
Damages,  
&c.

CXLIV. Where in this or the special Act, or any Act incorporated therewith, any Question of Compensation, Expenses, Charges, or Damages is referred to the Determination of any One Justice, or more, it shall be lawful for any Justice, upon the Application of either Party, to summon the other Party to appear before One Justice, or before Two Justices, as the Case may require, at a Time and Place to be named in such Summons; and upon the Appearance of such Parties, or in the Absence of any of them, upon Proof of due Service of the Summons, it shall be lawful for such One Justice, or such Two Justices, as the Case may be, to hear and determine such Question, and for that Purpose to examine such Parties or any of them, and their Witnesses, on Oath, and the Costs of every such Inquiry shall be in the Discretion of such Justices, and they shall determine the Amount thereof.

*Recovery of Damages and Penalties.*  
Court to make such Order as they think reasonable.

CLX. At the Quarter Sessions for which such Notice shall be given the Court shall proceed to hear and determine the Appeal in a summary Way, or they may, if they think fit, adjourn it to the following Sessions; and upon the hearing of such Appeal the Court may, if they think fit, mitigate any Penalty or Forfeiture, or they may confirm or quash the Adjudication, and order any Money paid by the Appellant, or levied by Distress upon his Goods, to be returned to him, and may also order such further Satisfaction to be made to the Party injured as they may judge reasonable; and they may make such Order concerning the Costs, both of the Adjudication and of the Appeal, as they may think reasonable.

*Access to Special Act.*

And with respect to the Provision to be made for affording Access to the special Act by all Parties interested, be it enacted as follows:

Copies of Special Act to be kept and deposited, and allowed to be inspected.

CLXI. The Company shall, at all Times after the Expiration of Six Months after the passing of the special Act, keep in their principal Office of Business a Copy of the special Act, printed by the Printers to Her Majesty, or some of them; and where the Undertaking shall be a Railway, Canal, or other like Undertaking, the Works of which shall not be confined to one Town or Place, shall also, within the Space of such Six Months, deposit in the Office of each of the Clerks of the Peace of the several Counties into which the Works shall extend, and in the Office of the Town Clerk of every Burgh or City into which or within One Mile of which the Works shall extend, a Copy of such special Act so printed as aforesaid; and the said Clerks of the Peace and Town Clerks shall receive, and they and the Company respectively shall retain, the said Copies of the special Act, and shall permit all Persons interested to inspect the same, and make Extracts or Copies therefrom, in the like Manner and upon the like Terms and under the like Penalty for Default as is provided in the Case of certain Plans and Sections, by an Act passed in the First Year of the Reign of Her present Majesty, intituled *An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament.*

7 W. 4 &  
1 Vict. c. 83.

Penalty on Company failing to keep or deposit such Copies. Act not to extend to Scotland. For recovering Costs.

CLXII. If the Company shall fail to keep or deposit as herein before mentioned any of the said Copies of the special Act, they shall forfeit Twenty Pounds for every such Offence, and also Five Pounds for every Day afterwards during which such Copy shall be not so kept or deposited.

CLXIII. And be it enacted, That this Act shall not extend to Scotland.

holders residing in Scotland.

CLXIV. Provided always, and be it enacted, That if any Shareholder residing in Scotland, shall fail to pay the Amount of any Call made upon him by the Company in respect of any Share held by him, it shall be lawful for the company to proceed against him in Scotland, and to sue for and recover the Amount of such Call, or to declare such Share forfeited, in such Manner as is by "The Companies Clauses Consolidation (Scotland) Act, 1845," in case the same shall pass into a Law, provided in regard to Shareholders of any Company in Scotland.

Act may be amended, &c.

CLXV. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.



SCHEDULES referred to by the foregoing Act.

SCHEDULE (A).

*Form of Certificate of Share.*

Number Company."  
 This is to certify, That A.B. of is the Proprietor  
 of the Share Number of "The Company,"  
 subject to the Regulations of the said Company. Given under  
 the Common Seal of the said Company, the Day  
 of in the Year of our Lord

SCHEDULE (B).

*Form of Transfer of Shares or Stock.*

I of in consideration of  
 the Sum of paid to me by  
 of do hereby transfer to the said  
 Share [or Shares], numbered in the Undertaking  
 called "The Company " [or  
 Pounds Consolidated Stock in the Undertaking called "The  
Company " standing (or Part of the  
 Stock standing) in my Name in the Books of the Company], to  
 hold unto the said his Executors, Administrators,  
 and Assigns [or Successors and Assigns], subject to the several  
 Conditions on which I held the same at the Time of the Execution  
 hereof; and I the said do hereby agree to  
 take the said Share [or Shares ] [or Stock], subject to the same  
 Conditions. As witness our Hands and Seals, the  
 Day of in the Year of our Lord

SCHEDULE (C).

*Form of Mortgage Deed.*

"The Company."  
 Mortgage, Number £  
 By virtue of [*here name the special Act*], we, "The  
 Company," in consideration of the Sum of Pounds  
 paid to us by A.B. of do assign unto the said A.B.,  
 his Executors, Administrators, and Assigns, the said Undertaking  
 [and (*in case such Loan shall be in anticipation of the Capital*  
*authorized to be raised*) all future Calls on Shareholders], and all  
 the Tolls and Sums of Money arising by virtue of the said Act,  
 and all the Estate, Right, Title, and interest of the Company in  
 the same; to hold unto the said A.B., his Executors, Adminis-  
 trators, and Assigns, until the said Sum of  
 Pounds, together with Interest for the same at the Rate of  
 for every One hundred Pounds by the Year,  
 be satisfied [the Principal Sum to be repaid at the End of  
 Years from the Date hereof (*in case any Period*  
*be agreed upon for that Purpose*)], [at  
 or any Place of Payment other than the principal Office of the  
 Company]. Given under our Common Seal, this  
 day of in the Year of our Lord

*Form of Bond.*

The Condition of the above Obligation is such, that if ~~the~~ said Company shall pay to the said A.B., his Executors, Administrators, or Assigns [at *A.* (in case any other Place of Payment than the principal Office of the Company be intended),] on the *Day* of *.* which will be in the Year One thousand eight hundred and *.* the Principal Sum of *.* Pounds, together with Interest for the same at the Rate of *.* Pounds per Centum per Annum, payable half-yearly on the *Day* of *.* and *Day* of *.* then the above-written Obligation is to become void, otherwise to remain in full Force. Given under our Common Seal, this *Day* of *.* One thousand eight hundred and *.*

*Form of Transfer of Mortgage or Bond.*

I A.B. of \_\_\_\_\_ in consideration of the Sum  
of \_\_\_\_\_ paid to me by G.H. of \_\_\_\_\_  
do hereby transfer to the said G.H., his Executors, Adminis-  
trators, and Assigns, a certain Bond [or Mortgage] Number  
\_\_\_\_\_ made by "The \_\_\_\_\_ Company" for  
\_\_\_\_\_ bearing Date the \_\_\_\_\_ Day of \_\_\_\_\_ for  
securing the Sum of \_\_\_\_\_ and  
Interest [or, if such Transfer be by Endorsement, the within  
Security], and all my Right, Estate, and Interest in and to the  
Money thereby secured [and if the Transfer be of a Mortgage,  
and in and to the Tolls, Money, and Property thereby assigned].  
In witness whereof I have hereunto set my Hand and Seal,  
this \_\_\_\_\_ Day of \_\_\_\_\_ One thousand  
eight hundred and \_\_\_\_\_

### Form of Proxy.

One of the Proprietors of the said Company doth hereby appoint C.D. of the said County of \_\_\_\_\_ to be the Proxy of the said A.B. in his Absence to vote in his Name upon any Matter relating to the Undertaking proposed at the Meeting of the Proprietors of the said Company to be held on the \_\_\_\_\_ Day of \_\_\_\_\_ next, in such Manner as he the said C.D. doth think proper. In witness whereof the said A.B. hath hereunto

set his Hand [*or, if a Corporation, say the Common Seal of the Corporation*], the      Day of  
 thousand eight hundred and

SCHEDULE (G).  
*Form of Conviction.*

to wit.  
 Be it remembered, That on the      Day of  
 in the Year of our Lord      A.B. is convicted  
 before us C., D., Two of Her Majesty's Justices of the Peace for  
 the county of      [*here describe the Offence*  
*generally, and the Time and Place when and where committed*],  
 contrary to the [*here name the special Act*]. Given under our  
 Hands and Seals, the Day and Year first-above written.  
 C.  
 D.

CXLV. The Company shall publish the short Particulars of which the several Offences for which any Penalty is imposed by this on the special Act, or any Act incorporated therewith, or by any Bye Law of the Company affecting other Persons than the Shareholders, Officers, or Servants of the Company, and of the Amount of every such Penalty, and shall cause such Particulars to be painted on a Board, or printed upon Paper and pasted thereon, and shall cause such Board to be hung up or affixed on some conspicuous Part of the principal Place of Business of the Company, and where any such Penalties are of local Application shall cause such Boards to be affixed in some conspicuous Place in the immediate Neighbourhood to which such Penalties are applicable or have Reference; and such Particulars shall be renewed as often as the same or any Part thereof is obliterated or destroyed; and no such Penalty shall be recoverable unless it shall have been published and kept published in the Manner hereinbefore required. Publication of Penalties.

CXLVI. If any Person pull down or injure any Board put up or affixed as required by this or the special Act, or any Act incorporated therewith, for the Purpose of publishing any Bye Law or Penalty, or shall obliterate any of the Letters or Figures thereon, he shall forfeit for every such Offence a Sum not exceeding Five Pounds, and shall defray the Expenses attending the Restoration of such Board. Penalty for defacing Boards used for such Publication.

CXLVII. Every Penalty or Forfeiture imposed by this or the special Act, or any Act incorporated therewith, or by any Bye Law made in pursuance thereof, the Recovery of which is not otherwise provided for, may be recovered by summary Proceeding before Two Justices; and on Complaint being made to any Justice he shall issue a Summons, requiring the Party complained against to appear before Two Justices at a Time and Place to be named in such Summons; and every such Summons shall be served on the Party offending, either in Person or by leaving the same with some Inmate at his usual Place of Abode; and upon the Appearance of the Party complained against, or in his Absence, after Proof of the due Service of such Summons, it shall be lawful for Two Justices to proceed to the hearing of the Complaint, and that although no Information in Writing or in Print shall have been exhibited before them, and upon Proof of the Offence, either by the Confession of the Party complained Penalties to be summarily recovered before Two Justices.

against, or upon the Oath of One credible Witness or more, it shall be lawful for such Justices to convict the Offender, and upon such Conviction to adjudge the Offender to pay the Penalty or Forfeiture incurred, as well as such Costs attending the Conviction as such Justices shall think fit.

Penalties  
may be levied  
by Distress.

CXLVIII. If forthwith upon any such Adjudication as aforesaid, the Amount of the Penalty or Forfeiture, and of such Costs as aforesaid, be not paid, the Amount of such Penalty and Costs shall be levied by Distress; and such Justices, or either of them, shall issue their or his Warrant of Distress accordingly.

Imprison-  
ment in de-  
fault of Dis-  
tress.

CXLIX. It shall be lawful for any such Justice to order any Offender so convicted as aforesaid to be detained and kept in safe Custody until Return can be conveniently made to the Warrant of Distress to be issued for levying such Penalty or Forfeiture, and Costs, unless the Offender give sufficient Security, by way of Recognizance or otherwise, to the Satisfaction of the Justice, for his Appearance before him on the Day appointed for such Return, such Day not being more than Eight Days from the Time of taking such Security; but if before issuing such Warrant of Distress it shall appear to the Justice, by the Admission of the Offender or otherwise, that no sufficient Distress can be had within the Jurisdiction of such Justice whereon to levy such Penalty or Forfeiture, and Costs, he may, if he thinks fit, refrain from issuing such Warrant of Distress; and in such Case, or if such Warrant shall have been issued, and upon the Return thereof such Insufficiency as aforesaid shall be made to appear to the Justice, then such Justice shall, by Warrant, cause such Offender to be committed to Gaol, there to remain without Bail for any Term not exceeding Three Months, unless such Penalty or Forfeiture, and Costs, be sooner paid and satisfied.

Distress how  
to be levied.

CL. Where in this or the special Act, or any Act incorporated therewith, any Sum of Money, whether in the Nature of Penalty or otherwise, is directed to be levied by Distress, such Sum of Money shall be levied by Distress and Sale of the Goods and Chattels of the Party liable to pay the same; and the Overplus arising from the Sale of such Goods and Chattels, after satisfying such Sum of Money, and the Expenses of the Distress and Sale, shall be returned, on Demand, to the Party whose Goods shall have been distrained.

Distress not  
unlawful for  
Want of  
Form.

CLI. No Distress levied by virtue of this or the special Act, or any Act incorporated therewith, shall be deemed unlawful, nor shall any Party making the same be deemed a Trespasser, on account of any Defect or Want of Form in the Summons, Conviction, Warrant of Distress, or other Proceeding relating thereto, nor shall such Party be deemed a Trespasser *ab initio* on account of any Irregularity afterwards committed by him, but all Persons aggrieved by such Defect or Irregularity may recover full Satisfaction for the special Damage in an Action upon the Case.

Application  
of Penalties.

CLII. The Justices by whom any such Penalty or Forfeiture shall be imposed may, where the Application thereof is not otherwise provided for, award not more than One Half thereof to the Informer, and shall award the Remainder to the Overseers of the Poor of the Parish in which the Offence shall have been committed, for the Benefit of the Poor of such Parish; or if the Place wherein the Offence shall have been committed shall be

extra-parochial, then such Justices shall direct such Remainder to be applied for the Benefit of the Poor of such extra-parochial Place, or of any adjoining Parish or District, and shall order the same to be paid over to the proper Officer for that Purpose.

CLIII. No Person shall be liable to the Payment of any Penalty or Forfeiture imposed by virtue of this or the special Act, or any Act incorporated therewith, for any Offence made cognizable before a Justice, unless the Complaint respecting such Offence shall have been made before such Justice within Six Months next after the Commission of such Offence.

Penalties to be sued for within Six Months.

CLIV. If, through any Act, Neglect, or Default on account whereof any Person shall have incurred any Penalty imposed by this or the special Act, or any Act incorporated therewith, any Damage to the Property of the Company shall have been committed by such Person, he shall be liable to make good such Damage, as well as to pay such Penalty; and the Amount of such Damages shall, in case of Dispute, be determined by the Justices by whom the Party incurring such Penalty shall have been convicted; and on Nonpayment of such Damages, on Demand, the same shall be levied by Distress, and such Justices, or One of them, shall issue their or his Warrant accordingly.

Damage to be made good in addition to Penalty.

CLV. It shall be lawful for any Justice to summon any Person to appear before him as a Witness in any Matter in which such Justice shall have Jurisdiction, under the Provisions of this or the special Act, or any Act incorporated therewith, at a Time and Place mentioned in such Summons, and to administer to him an Oath to testify the Truth in such Matter; and if any Person so summoned shall, without reasonable Excuse, refuse or neglect to appear at the Time and Place appointed for that Purpose, having been paid or tendered a reasonable Sum for his Expenses, or if any Person appearing shall refuse to be examined upon Oath or to give Evidence before such Justice, every such Person shall forfeit a Sum not exceeding Five Pounds for every such Offence.

Penalty on Witnesses making default.

CLVI. It shall be lawful for any Officer or Agent of the Company, and all Persons called by him to his Assistance, to seize and detain any Person who shall have committed any Offence against the Provisions of this or the special Act, or any Act incorporated therewith, and whose Name and Residence shall be unknown to such Officer or Agent, and convey him, with all convenient Despatch, before some Justice, without any Warrant or other Authority than this or the special Act; and such Justice shall proceed with all convenient Despatch to the hearing and determining of the Complaint against such Offender.

Transient Offenders.

CLVII. The Justices before whom any Person shall be convicted of any Offence against this or the special Act, or any Act incorporated therewith, may cause the Conviction to be drawn up according to the Form in the Schedule (G.) to this Act annexed.

Form of Conviction.

CLVIII. No Proceeding in pursuance of this or the special Act, or any Act incorporated therewith, shall be quashed or vacated for Want of Form, nor shall the same be removed by Certiorari or otherwise into any of the Superior Courts.

Proceedings not to be quashed for Want of Form. Appeal.

CLIX. If any Party shall feel aggrieved by any Determination or Adjudication of any Justice with respect to any Penalty or Forfeiture under the Provisions of this or the special Act, or any Act incorporated therewith, such Party may appeal to the General Quarter Sessions for the County or Place in which the

Parties allowed to appeal to Quarter Sessions on giving Security.

*Appeal.*

Cause of Appeal shall have arisen ; but no such Appeal shall be entertained unless it be made within Four Months next after the making of such Determination or Adjudication, nor unless Ten Days' Notice in Writing of such Appeal, stating the Nature and Grounds thereof, be given to the Party against whom the Appeal shall be brought, nor unless the Appellant forthwith after such Notice enter into Recognizances, with Two sufficient Sureties, before a Justice, conditioned duly to prosecute such Appeal, and to abide the Order of the Court thereon.

# APPENDIX D

## Companies' (Foreign Interests) Act, 1917

[7. AND 8 GEO. V. C. 18]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) Where any provision in the articles of association of a registered company is designed to restrict or limit, or has the effect of restricting or limiting, the proportion or amount of the capital of the company or of the voting power in the company, or of the control held upon the Board of the company, which may be held or exercised by or on behalf of aliens, or is otherwise designed to restrict or limit, or has the effect of restricting or limiting, the interests or authority of aliens in the company or the control of the company by aliens, an alteration of that provision shall not be of any effect, notwithstanding anything in any other Act, until it has received the written consent of the Board of Trade.

Prohibition of alteration of articles restricting foreign interests in companies except with consent of Board of Trade.

(2) The decision of the Board of Trade as to whether an alteration of a provision requires the consent of the Board under this Act or not shall be final and conclusive.

(3) This Act shall apply to any regulations or provisions in the nature of regulations affecting an incorporated company, not being a registered company, which can be altered by the company, in the same manner as it applies to the articles of association of a registered company.

(4) In this Act the expression "registered company" means a company as defined by section two hundred and eighty-five of the Companies (Consolidation) Act, 1908, and the expression "alien" includes any body corporate not incorporated in some part of His Majesty's dominions and any class of aliens.

6 Edw. 7. c. 69.

2.—The following provisions shall apply to every company in whose articles of association is contained any provision such as mentioned in section one (1) of this Act:—

Provisions applicable to certain companies.

(1) A resolution for the voluntary winding up of the company shall be of no effect unless the Board of Trade in its discretion authorises or ratifies it by a written consent.

(2) The Court which has jurisdiction to wind up the company may in its discretion refuse to make a winding-up order.

(3) In the exercise of its discretion the Board of Trade or the Court, as the case may be, shall be guided by the consideration whether the winding up is bona fide with a view to the discontinuance of the undertaking, or is with a view to continuing the undertaking free from any restrictions or limitations such as are

mentioned in section one (1) of this Act which are contained in the company's articles of association or any of such restrictions or limitations.

- (4) The Board of Trade in giving consent or the Court in making a winding-up order, as the case may be, may impose such terms or conditions for giving effect to this Act as it thinks fit.

Short title.

3.—This Act may be cited as the Companies (Foreign Interests) Act, 1917.

## APPENDIX E

# Companies (Particulars as to Directors) Act, 1917

[7 AND 8 GEO. V. C. 28]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Obligation of companies to disclose particulars respecting directors.

8 Edw. 7.  
c. 69.

6 & 7 Geo. 5  
c. 28.

1.—In addition to the particulars with respect to the persons who are the directors, or occupy the position of directors, which by section twenty-six of the Companies (Consolidation) Act, 1908, are required to be included in the annual summary, or, in the case of a company incorporated outside the United Kingdom which establishes a place of business within the United Kingdom, are, by section two hundred and seventy-four of that Act, required to be included amongst the particulars to be filed with the Registrar of Companies, there shall be included such particulars with respect to those persons as would be required to be furnished with respect to them under the Registration of Business Names Act, 1916, if they were partners in a firm required to be registered under that Act, and the register required to be kept by a company under section seventy-five of the Companies (Consolidation) Act, 1908, shall include such particulars as aforesaid, and the obligation of the company under that section, or in the case of a company incorporated outside the United Kingdom under section two hundred and seventy-four of the said Act, from time to time to notify to the registrar any change among its directors shall include an obligation so to notify any change in any such particulars.

Additional obligations of companies.

2.—(1) Every company which has been registered between the twenty-second day of November, nineteen hundred and sixteen, and the passing of this Act, and every company incorporated outside the United Kingdom which has before the passing of this Act established a place of business within the United Kingdom, shall, within one month after the passing of this Act, and every company registered after the passing of this Act shall, within one month of the registration of the company, send to the registrar of companies, in such form as may be prescribed by the Board of Trade, such particulars respecting the directors of the company and, except in the case of a



company incorporated outside the United Kingdom, respecting the persons who since the registration of the company have been directors of the company, as would be required to be furnished with respect to them under the Registration of Business Names Act, 1916, if they were partners in a firm required to be registered under that Act, and if default is made in compliance with this section, the company shall be liable on summary conviction to a fine not exceeding five pounds for every day during which the default continues, and every director, secretary, and officer of the company who is knowingly a party to the default shall be guilty of a like offence and liable to a like penalty.

(2) Sections eighteen and nineteen of the Registration of Business Names Act, 1916, with respect to the publication in trade catalogues, trade circulars, show cards, and business letters of certain particulars, shall after the expiration of three months from the passing of this Act apply to every company which since the said twenty-second day of November, nineteen hundred and sixteen, has been registered or, in the case of a company incorporated outside the United Kingdom which has since the said twenty-second day of November, nineteen hundred and sixteen, established a place of business within the United Kingdom, or which may after the passing of this Act be registered or establish a place of business within the United Kingdom, as if the directors of the company were partners in a firm required to be registered under the first-mentioned Act:

Provided that if special circumstances exist which render it in the opinion of the Board, expedient that such an exemption should be granted, the Board of Trade may by order grant subject to such conditions as may be specified in the order, exemption from the obligations imposed by this sub-section.

3.—For the purposes of this Act and of sections twenty-six, seventy-five, and two hundred and seventy-four of the Companies (Consolidation) Act, 1908, as amended by this Act, the expression "director" shall include any person who occupies the position of a director and any person in accordance with whose directions or instructions the directors of a company are accustomed to act.

4.—This Act may be cited as the Companies (Particulars as to Directors) Act, 1917; and the Companies Acts, 1908 and 1913, the Companies (Foreign Interests) Act, 1917, and this Act may be cited together as the Companies Acts, 1908 to 1917.

Meaning of director.

Short title and citation.  
3 & 4 Geo. 5  
c. 25.  
7 & 8 Geo.  
c. 18.

## APPENDIX F

# Legislation passed owing to the Outbreak of War

THE outbreak of the Great War in 1914 had a great effect upon the economic conditions of the world, and special legislation was rendered necessary in order to cope with the altered state of affairs as affecting companies. In all probability this legislation will be of a temporary character, and for that reason its position in the present volume has been relegated to an appendix.

The principal topics dealt with are the following—

1. Trading with the enemy.
2. Payment of dividends.
3. Registration of new companies.
4. New issues of capital.

### I

#### TRADING WITH THE ENEMY

The legislative enactments as to this are contained in the Trading with the Enemy Act, 1914, and the Trading with the Enemy Amendment Act, 1916.

By the former it is provided (*inter alia*) as follows—

SECT. 1.—(1) Any person who during the present war trades or has, since the 4th August, 1914, traded with the enemy within the meaning of this Act shall be guilty of a misdemeanour, and shall

- (a) on conviction under the Summary Jurisdiction Acts, be liable to imprisonment with or without hard labour for a term not exceeding twelve months, or to a fine not exceeding £500, or to both such imprisonment and fine; or
- (b) on conviction or indictment, be liable to penal servitude for a term not exceeding seven or less than three years, or to imprisonment with or without hard labour for a term not exceeding two years, or to a fine, or to both such penal servitude or imprisonment and fine;

and the court may in any case order that any goods or money, in respect of which the offence has been committed, be forfeited.

(2) For the purposes of this Act, a person shall be deemed to have traded with the enemy if he has entered into any transaction or done any act which was, at the time of such transaction or act, prohibited by or under any Proclamation issued by His Majesty dealing with trading with the enemy for the time being in force, or which at common law or by statute constitutes an offence of trading with the enemy. Provided that any transaction or act permitted by or under any such proclamation shall not be deemed to be trading with the enemy.

(3) Where a company has entered into a transaction or has done any act which is an offence under this section, every director, manager, secretary, or other officer of the company who is knowingly a party to the transaction or act shall also be deemed guilty of the offence.

SECT. 2. . . (2) Where it appears to the Board of Trade—

- (a) in the case of a firm, that one of the partners in the firm was immediately before or at any time since the commencement of the present war a subject of, or resident or carrying on business in, a state for the time being at war with His Majesty; or
- (b) in the case of a company, that one-third or more of the issued share capital or of the directorate of the company immediately before or at any time since the commencement of the present war was held by or on behalf of or consisted of persons who were subjects of, or resident or carrying on business in, a state for the time being at war with His Majesty; or
- (c) in the case of a person, firm, or company, that this person was or is, or the firm or company were or are, acting as agent for any person, firm, or company trading or carrying on business in a State for the time being at war with His Majesty;

the Board of Trade may, if they think it expedient for the purpose of satisfying themselves that the person, firm, or company are not trading with the enemy, by written order, give to a person appointed by them, without any warrant from a justice, authority to inspect all books and documents belonging to or under the control of the person, firm, or company, and to require any person able to give information with respect to the business or trade of that person, firm, or company to give that information.

For the purposes of this sub-section, any person authorised in that behalf by the Board of Trade may inspect the register of members of a company at any time, and any shares in a company for which share warrants to bearer have been issued shall not be reckoned as part of the issued share capital of the company.

(3) If any person having the custody of any book or document which a person is authorised to inspect under this section refuses or wilfully neglects to produce it for inspection, or if any person who is able to give any information which may be required to be given under this section refuses or wilfully neglects when required to give that information, that person shall on conviction under the Summary Jurisdiction Acts be liable to imprisonment with or without hard labour for a term not exceeding six months, or to a fine not exceeding £50, or to both such imprisonment and fine.

The above restrictions were somewhat extended by the Trading with the Enemy (Extension of Powers) Act, 1915; and then the following sections of the Trading with the Enemy Amendment Act, 1915, are important—

SECT. 1.—(1) Where it appears to the Board of Trade that the business carried on in the United Kingdom by any person, firm, or company is by reason of the enemy nationality or enemy association of that person, firm, or company, or the members of that firm or company or any of them, or otherwise carried on

wholly or mainly for the benefit of or under the control of enemy subjects; the Board of Trade shall, unless for any special reason it appears to them inexpedient to do so, make an order either —

- (a) prohibiting the person, firm, or company from carrying on the business, except for the purposer and subject to the conditions, if any, specified in the order; or
- (b) requiring the business to be wound up.

The Board of Trade may at any time make or vary any such order, and may, in any case where they have made an order prohibiting or limiting the carrying on of the business, at any time, if they think it expedient, substitute for that order an order requiring the business to be wound up.

(2) Where the Board of Trade make any such order they may at the same time or at any time subsequently appoint a controller to control and supervise the carrying out of the order, and, if the case requires, to conduct the winding up of the business; and in any case where it appears expedient to the Board of Trade, the Board may, as occasion requires, confer on the controller such powers as are exercisable by a liquidator in a voluntary winding up of a company (including power in the name of the person, firm, or company, or in his own name, and by deed or otherwise to convey or transfer any property, and power to apply to the High Court or a judge thereof to determine any questions arising in the carrying out of the order), or those powers subject to such modifications, restrictions, or extensions as the Board think necessary or convenient for the purpose of giving full effect to the order; and the remuneration of and costs, charges, and expenses incurred by the controller, or any remuneration payable and costs, charges, and expenses incurred in connection with the supervision or inspection of the business, whether before or after the passing of this Act, to such amount as may be approved by the Board, shall be defrayed out of the assets of the business, and shall be charged on such assets in priority to any other charges thereon.

In England and Wales an official receiver may, if the Board of Trade think fit, be appointed controller.

(3) The distribution of any sums or other property resulting from the realisation of any assets of the business, whether those assets are realised as the result of an order requiring the business to be wound up or as the result of an order prohibiting or limiting the carrying on of the business, shall be subject to the same rules as to preferential payments as are applicable to the distribution of the assets of a company which is being wound up, and those assets shall, so far as they are available for discharging unsecured debts, be applied in discharging such debts due to creditors who are not enemies in priority to the unsecured debts due to creditors who are enemies; and any balance, after providing for the discharge of liabilities, shall be distributed amongst the persons interested therein in such manner as the Board of Trade may direct.

Provided that any sums or other property which had a state of war not existed would have been payable or transferable under this section to enemies, whether as creditors or otherwise, shall be paid or transferred to the custodian under the Trading with the Enemy Amendment Act, 1914, to be dealt with by him in like manner as money paid to him under that Act.

(7) Where an order under this section has been made as

## WAR LEGISLATION

respects the business carried on by any person, firm, or company, no bankruptcy petition or petition for sequestration or summary sequestration against such person or firm, or petition for the winding up of such company, shall be presented, or resolution for the winding up of such company passed, or steps for the enforcement of the rights of any creditors of the person, firm, or company taken, without the consent of the Board of Trade, but the Board of Trade may present a petition for the winding up of the company by the court, and the making of an order under this section shall be approved on which the company may be wound up by the court.

SECT. 10.—(1) Where on an application for the registration of a company it appears to the Registrar of Joint Stock Companies that any subscriber of the memorandum of association or any proposed director of the company is an enemy subject, he may refuse to register the company.

(2) No allotment or transfer of any share, stock, debenture, or other security issued by a company made after the passing of this Act to or for the benefit of an enemy subject, shall, unless made with the consent of the Board of Trade, confer on the allottee or transferee any rights or remedies in respect thereof, and the company by whom the security was issued shall not take any cognisance of or otherwise act upon any notice of any such transfer except by leave of a court of competent jurisdiction or of the Board of Trade.

If any company contravenes the provisions of this section, the company shall be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding one hundred pounds, and every director, manager, secretary, or other officer of the company who is knowingly a party to the default shall be liable on conviction to a fine for a like amount or to imprisonment, with or without hard labour, for a term not exceeding six months.

(3) Where the right of nominating or appointing a director of a company is vested in any enemy or enemy subject, the right shall not be exercisable except by leave of the Board of Trade, and any director nominated or appointed in exercise of such right shall, except as aforesaid, cease to hold office as director.

SECT. 11. Where the Board of Trade certify that it appears to them that a company registered in the United Kingdom is carrying on business either directly or through an agent, branch, or subsidiary company outside the United Kingdom, and that in carrying on such business it has entered into or done acts which if entered into or done in the United Kingdom would constitute the offence of trading with the enemy, the Board of Trade may present a petition for the winding up of the company by the court, and the issue of such a certificate shall be a ground on which the company may be wound up by the court, and the certificate shall, for the purposes of the petition, be evidence of the facts therein stated.

SECT. 15. In this Act the expression "enemy subject" means a subject of a State for the time being at war with His Majesty, and includes a body corporate constituted according to the laws of such a State.

## II

### PAYMENT OF DIVIDENDS

In order to prevent the payment of money to persons and bodies of persons residing in enemy countries during the continuance of the war, the Trading with the Enemy Amendment

Act, 1914, was passed; and the following are the important sections of the Act bearing upon the payment of dividends to alien enemies:

SECT. 1.—(1) The Board of Trade shall appoint a person to act as Custodian of enemy property (hereinafter referred to as "the Custodian") for England and Wales, for Scotland, and for Ireland respectively, for the purpose of receiving, holding, preserving, and dealing with such property as may be paid to or vested in him in pursuance of this Act, and if any question arises as to which Custodian any money is to be paid to under this Act, the question shall be determined by the Board of Trade.

(2) The Public Trustee shall be appointed to be the Custodian for England and Wales, and shall, in relation to all property held by him in his capacity of Custodian, have the like status, and his accounts shall be subject to the like audit, as if the same were held by him in his capacity of Public Trustee, and the Public Trustee Act, 1906, shall apply accordingly.

2.—(1) Any sum which, had a state of war not existed, would have been payable and paid to or for the benefit of an enemy, by way of dividends, interest, or share of profits, shall be paid by the person, firm, or company by whom it would have been payable to the Custodian to hold subject to the provisions of this Act and any Order in Council made thereunder, and the payment shall be accompanied by such particulars as the Board of Trade may prescribe, or as the Custodian, if so authorised by the Board of Trade, may require.

Any payment required to be made under this sub-section to the Custodian shall be made—

(a) within fourteen days after the passing of this Act, if the sum, had a state of war not existed, would have been paid before the passing of this Act; and

(b) in any other case within fourteen days after it would have been paid.

(3) If any person fails to make or require the making of any payment or to furnish the prescribed particulars within the time mentioned in this section, he shall, on conviction under the Summary Jurisdiction Acts, be liable to a fine not exceeding one hundred pounds or to imprisonment, with or without hard labour, for a term not exceeding six months, or to both such fine and imprisonment, and in addition to a further fine not exceeding fifty pounds for every day during which the default continues, and every director, manager, secretary, or officer of a company, or any other person who is knowingly a party to the default shall, on the like conviction, be liable to the like penalty.

(5) For the purposes of this Act the expression "dividends, interest, or share of profits" means any dividends, bonus, or interest in respect of any shares, stock, debentures, debenture stock, or other obligations of any company, any interest in respect of any loan to a firm or person carrying on business for the purposes of that business, and any profits or share of profits of such a business, and, where a person is carrying on any business on behalf of an enemy, any sum which, had a state of war not existed, would have been transmissible by a person to the enemy by way of profits from that business shall be deemed to be a sum which would have been payable and paid to that enemy.

SECT. 3.—(2) Every company incorporated in the United

Kingdom and every company which, though not incorporated in the United Kingdom, has a share transfer or share registration office in the United Kingdom shall, within one month after the passing of this Act, by notice in writing, communicate to the Custodian full particulars of all shares, stock, debentures, and debenture stock and other obligations of the company which are held by or for the benefit of an enemy; and every partner of every firm, one or more partners of which on the commencement of the war became enemies or to which money had been lent for the purpose of the business of the firm by a person who so became an enemy, shall, within one month after the commencement of this Act, by notice in writing communicate to the Custodian full particulars as to any share of profits and interest due to such enemies or enemy, and, if any company or partner fails to comply with the provisions of this sub-section, the company shall, on conviction under the Summary Jurisdiction Acts, be liable to a fine not exceeding one hundred pounds, and in addition to a further fine not exceeding fifty pounds for every day during which the default continues, and the partner and every director, manager, secretary, or officer of the company who is knowingly a party to the default shall on the like conviction be liable to the like fine, or to imprisonment, with or without hard labour, for a term not exceeding six months, or to both such imprisonment and fine.

### III

#### REGISTRATION OF NEW COMPANIES

By the Trading with the Enemy Amendment Act, 1914, the following provision is made as to the registration of new companies—

SECT. 9.—(1) During the continuance of the present war a certificate of incorporation of a company shall not be given by the Registrar of Joint Stock Companies until there has been filed with him either—

- (a) a statutory declaration by a solicitor of the Supreme Court, or, in Scotland, by an enrolled law agent, engaged in the formation of the company, that the company is not formed for the purpose or with the intention of acquiring the whole or any part of the undertaking of a person, firm or company the books and documents of which are liable to inspection under sub-section (2) of section two of the principal Act; or

- (b) a licence from the Board of Trade authorising the acquisition by the company of such an undertaking.

(2) Where such a statutory declaration has been filed it shall not be lawful for the company, during the continuance of the present war, without the licence of the Board of Trade, to acquire the whole or any part of any such undertaking, and if it does so the company shall, without prejudice to any other liability, be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding one hundred pounds, and every director, manager, secretary, or other officer of the company who is knowingly a party to the default shall on the like conviction be liable to the like fine or to imprisonment, with or without hard labour, for a term not exceeding six months.

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### IV

#### NEW ISSUES OF CAPITAL

Upon the re-opening of the Stock Exchange in January, 1915, the Treasury issued an announcement through the Press as to new issues of capital in the United Kingdom during the continuance of the war in the following terms—

"It appears to the Treasury that in the present crisis all other considerations must be subordinated to the paramount necessity of husbanding the financial resources of the country with a view to the successful prosecution of the war. Accordingly they wish it to be understood that until further notice they feel it imperative in the national interest that fresh issues of capital shall be approved by the Treasury before they are made."

"Treasury approval will be governed by the following general conditions—

"(1) Issues for undertakings carried on or to be carried on in the United Kingdom shall only be allowed where it is shown to the satisfaction of the Treasury that they are advisable in the national interest.

"(2) Issues or participations in issues for undertakings carried on or to be carried on in the British Empire Overseas shall only be allowed where it is shown to the satisfaction of the Treasury that urgent necessity and special circumstances exist.

"(3) Issues or participations in issues for undertakings carried on or to be carried on outside the British Empire shall not be allowed.

"(4) The Treasury will not in ordinary cases insist upon the above restrictions where issues are required for the renewal of Treasury bills or other short instruments held here and falling due of foreign or Colonial governments or municipal corporations, or railways or other undertakings.

"All applications should be made in the first instance to the Treasury.

"The Treasury will not be prepared to approve under paragraph 4 (3) of the Temporary Regulations for the Re-opening of the Stock Exchange any dealings in new issues which have not been approved by the Treasury before they are made."

"The following is a copy of the notice issued by the Treasury—

"(1) The restriction must be taken, for the present at any rate, as applying to the issue of all capital, including that of private companies and that of the nature of reconstruction of existing capital.

"(2) The approval of the Treasury should be obtained for all fresh issues of capital of whatever nature, whether made on behalf of a Government, municipality, or other public body, or any company, whether public or private. Treasury approval is not required for calls or instalments on shares, stock, debentures, or bonds already issued.

"(3) All applications for approval of fresh issues should be addressed to the Treasury, the envelope being marked "Capital Issues." In order to save delay and reduce correspondence to a minimum, it is desirable that the fullest particulars should be given in each case."

What is the real legal force of these regulations is somewhat in doubt, but in any case it is clear that in practice there are real difficulties placed in the way of the fresh issues of capital.



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